

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

THE HON. JUDGE ANDRÉ BIROTE JR., JUDGE PRESIDING

THUNDER STUDIOS, INC.; )  
RODRIC DAVID, )  
 )  
PlaintiffS, )  
 )  
vs. ) NO. 17-CV-00871-AB  
 )  
CHARIF KAZAL; TONY KAZAL; )  
ADAM KAZAL; AND DOES 1 to 100, )  
INCLUSIVE, )  
 )  
Defendants. )  
 )

**JURY TRIAL - DAY 2**

(1:40 p.m. to 4:32 p.m.)

Los Angeles, California

**Thursday, December 6, 2018**

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## I N D E X

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1:40 p.m.

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4 THE COURT: All right. Good afternoon. I hope  
5 you all had a good lunch.

6                   Why don't we call our next witness, please,  
7 Counsel.

8 MR. GEBELIN: Plaintiffs call Elizabeth David.

ELIZABETH DAVID, PLAINTIFFS' WITNESS, SWEARN

12 THE CLERK: Thank you. Please be seated.

13 | Please state and spell your name for the record.

14 THE WITNESS: My name is Elizabeth Ann David.

15 THE COURT: Can you spell your last name for the  
16 record, please.

17 THE WITNESS: D-a-v-i-d.

18 | THE COURT: Mr. Gebelin, you may proceed.

19 MR. GEBELIN: Thank you, Your Honor.

20

22 BY MR. GEBELIN:

23 Q Good afternoon, Ms. David.

## 24 A Good afternoon.

25 Q Can you please tell us where you live?

1 A I live in West Los Angeles.

2 Q And who lives there with you?

3 A My husband, Rodric David, my two children.

4 Q And can you tell me their ages?

5 A My son is 15, and my daughter is 12.

6 Q And just to be clear, is there any reason why you don't  
7 want to tell us their names in court?

8 A I would prefer the Kazal family to have as little  
9 information about my family as possible.

10 Q When did you first become aware of the Kazal family?

11 A Probably sometime late 2007, possibly 2008. I know  
12 that my father-in-law had introduced my husband to them.  
13 But, yes, around 2007, 2008.

14 Q After that time, do you recall your husband entering  
15 into some sort of business dealings with them?

16 A Yes. They entered a joint venture together to do a  
17 company in the Middle East.

18 Q How did that affect your family?

19 A Well, it affected us quite a bit. We ended up selling  
20 our home in Sydney and moving to the Middle East to run the  
21 company.

22 Q Was there a point at which the business relationship  
23 between your husband and the Kazals soured?

24 A Oh, yes. I mean, almost immediately. We had, as I  
25 said, sold our house and moved to the Middle East, and we

1    were funding the business at that stage, even though it was  
2    meant to be a 50/50 joint venture. And the Kazals never put  
3    their money in. They kept making excuses. "Well, we have  
4    to sell this property, and we have to do this, and we have  
5    to do that" for why they weren't putting their money in, but  
6    we were putting all of our money in.

7           And after 18 months of that, it's an untenable  
8    situation. You can't have a partnership when one party is  
9    doing all the work and putting all the money in and the  
10   other party isn't doing anything.

11   Q    When it soured, were there any negative consequences  
12   for your family?

13   A    How long have you got? Yes, obviously, there have been  
14   -- for an 18-month business relationship, I feel like we're  
15   still paying a tremendous cost for that -- for that brief  
16   business relationship.

17   Q    You said -- you mentioned you had moved your family to  
18   the Middle East.

19           Did you guys move away from the Middle East after  
20   the business deal soured?

21   A    We did. We moved back to Sydney for what we thought  
22   would be -- we would resettle in Sydney, but some things  
23   happened in Australia that we realized that we weren't going  
24   to be able to live peacefully in Australia because of the --

25           THE COURT: Counsel, you need to keep asking

1      questions, please.

2      BY MR. GEBELIN:

3      Q      So I understand you moved back to Sydney.

4      A      Yeah.

5      Q      What was it that -- after you moved to Sydney, what was  
6      it that made you or your family move away from Sydney again?

7      A      Well, there were a couple of incidents. Obviously, the  
8      conflict between Rodric and the Kazal brothers was  
9      escalating. There were some lawsuits back and forth about  
10     the liquidation of the business and what to do moving  
11     forward, and there was a lot of acrimony and, in my opinion,  
12     a lot of irrational behavior on the part of some of the  
13     Kazal brothers where they were following people we knew,  
14     confronting them, accosting them in the streets of Sydney.

15            And they also had me followed in 2010 by a private  
16     investigator who, after the course of a very long day and  
17     three visits to different police stations, the end of that  
18     day was when the investigator they hired stole my husband's  
19     phone, knocked him over with his car.

20            We were out the front of my children's elementary  
21     school -- we were going to the elementary school to tell the  
22     principal to be sure that they wouldn't release our children  
23     to anyone but us, and we were out front the school when we  
24     saw the man that the Kazals had hired again.

25            And my husband went to find him, because he had

1 driven past us and was down the block, and was trying to  
2 take video of the car and the license plate so we can figure  
3 out who this person was. The man grabbed my husband's phone  
4 while his arm was there and then started driving off, which  
5 obviously hit my husband with his car, knocked him over --

6 THE COURT: Counsel. You have to ask a question  
7 and get an answer from the witness. That's how we do it.

8 Okay?

9 MR. GEBELIN: I understand, Your Honor. I'm  
10 trying not to interrupt the witness.

11 THE COURT: Well, ask a question that's not a  
12 narrative and elicit the testimony from the witness, please.

13 MR. GEBELIN: Yes, Your Honor.

14 MR. TAYLOR: Your Honor, I have to move to strike  
15 those portions of her testimony that are not based on  
16 personal knowledge.

17 THE COURT: The objection is overruled.

18 BY MR. GEBELIN:

19 Q I understand this is emotional, Ms. David --

20 A Sorry. I will wait for you to ask the question. I  
21 apologize.

22 Q You just mentioned an incident where people were  
23 following you in Australia. In response to that incident,  
24 did you and your family start making plans to move?

25 A That evening the -- being followed, the police told us

1 that they didn't think it was safe for us to go back to our  
2 home in Sydney. They advised me to get a hotel room for us  
3 to stay in over the weekend, and they escorted me back to  
4 the house so I could get our belongings. That was probably  
5 the first weekend that we realized that we would not be able  
6 to live in Australia peacefully and started making plans to  
7 move to the United States, yes.

8 Q And then some time shortly thereafter, you and your  
9 family moved to the United States?

10 A We moved to the United States in late 2011.

11 Q When you moved to the United States, was it your  
12 expectation that it would protect you from further incidents  
13 like the one you described where you were followed?

14 A A hundred percent. I mean, I'm a U.S. citizen. My  
15 children are U.S. citizens. I felt like we should be able  
16 to come to the United States and live here without being  
17 terrorized by this family who had a long list of, as I said,  
18 ever escalating irrational behavior towards us.

19 And unfortunately it followed us here, and that's  
20 why we're sitting here today.

21 Q So you moved here in 2011.

22 I want to move forward a little bit to 2016, which  
23 is some of the events that we're about -- that this case is  
24 about here.

25 Do you remember in October 2016 anything that

1       happened to change your opinion of whether or not you were  
2       still safe from the Kazals?

3       A     Obviously, the morning that my son's -- the father who  
4       takes my son to school called me in a panic talking about  
5       these people that were on the street holding signs of my  
6       husband. I didn't know who they were. I didn't know what  
7       their intentions were and that did make me afraid for my  
8       safety in the United States, yes.

9       Q     So just to be clear, was this a protest that occurred  
10      near your home on October 26th, 2016?

11      A     That's correct.

12      Q     And you saw this protest?

13      A     I did.

14      Q     And tell me about how many people did you see.

15      A     The first day?

16      Q     The first day.

17      A     Approximately five -- approximately five people. I  
18      mean, I was genuinely in a state of shock that morning so my  
19      memory of exactly how many people is a little off, but I  
20      would say around five people.

21      Q     And what do you recall these people doing?

22      A     They were holding -- putting up posters and holding  
23      signs, big signs. When the father had called to say there  
24      were men on the bottom of the street with posters, in my  
25      mind I hadn't visualized 6-foot-long banners and giant

1 protest signs sort of thing. Yeah, it was -- I was totally  
2 shocked.

3 Q And you mentioned at the bottom of the street.

4 How close to your home were the protestors?

5 A So we're in a cul-de-sac that is a bit of like a  
6 U-shape, so you couldn't see where the protestors were from  
7 our house because it's a bit of a blind curve, but you go  
8 around the blind curve and continue on the U, and that's our  
9 children's school.

10 So I would say, maybe 250 meters around the curb  
11 to where the protestors were, another 250 meters  
12 approximately to my kids' school. So it was equal distance  
13 from where we live to where the kids went to school.

14 Q Did you do anything in response to these protestors  
15 being between your home and the children's school?

16 A The first day, yes. My -- so the father had picked up  
17 my son. My son immediately he's in the car calling me,  
18 "Mom, Mom, Mom, what are these people doing on the street?  
19 Who are they? Who are they? What are they doing?"

20 So my daughter -- her school started later. She  
21 was still in bed. And my husband had been at the gym when  
22 this started. I drove my car down, left my daughter at the  
23 house. I saw the protestors and was really just, in a momma  
24 bear way, trying to think, what can I do to stop this before  
25 I have to take my daughter to school. I mean, typically I

1 would walk her to school. It's less than a five-minute  
2 walk. How am I going to take her to school with these  
3 people standing here with signs that say terrible things  
4 about her father.

5 So I called the police. I didn't know what else  
6 to do. I didn't know who these men were, I didn't know what  
7 their intentions were. I knew they were directed by the  
8 Kazals, but I called the police because I was fearful of  
9 what they were there for.

10 Q How did you know they were directed by the Kazals?

11 A On the bottom of all the posters, it said "Care of  
12 Adam Kazal." They wanted it known that they were the ones  
13 behind it.

14 Q Did the LAPD come out and respond to your call?

15 A They did.

16 Q And what, if anything, do you recall the LAPD having  
17 done?

18 A Not a lot. They came out, they explained that people  
19 have a right of protest and a right of free speech. They  
20 said that they couldn't -- they were trying to hang the  
21 posters on, you know, public property, sign posts and  
22 people's private trees on their yards. So the LAPD officer  
23 told them to take it down, that they couldn't do that, they  
24 couldn't hang the signs on public or private property.

25 Then I had to go back because I had left my

1 daughter at the house, and I didn't -- Rodric had come by  
2 that stage back from the gym, so he was talking to the  
3 officer. And I just went back to the house to try and  
4 figure out how to get my daughter to school and not have her  
5 completely panic because these people were at the end of the  
6 street. It didn't seem to me like the LAPD were going to do  
7 anything to disperse them.

8 Q Were you afraid for your safety?

9 A I think the first morning I was more, again, in shock.  
10 In protection mode for my kids. You know, my kids were  
11 wrecked by it and afraid. And I think the fear came  
12 probably a couple of days later.

13 There were some e-mails that went back and forth,  
14 and they had also been doing something similar in Australia.  
15 I think when the full weight of what they were doing dawned  
16 on me, how much time and effort and money they were spending  
17 to escalate things to this point, then I -- it -- I was  
18 absolutely afraid that things were spiraling out of control.

19 This was a business relationship that had been  
20 finished for five years almost, and they were there  
21 protesting in front of my kids' schools over a commercial  
22 dispute. It was -- it was terrifying --

23 THE COURT: Ask your next question, please.

24 BY MR. GEBELIN:

25 Q If I can just unpack that a little bit.

1                   So you mentioned you were aware of a protest  
2 occurring in Australia?

3 A    Yes.

4 Q    And how did you know about that?

5 A    Well, friends and family and our attorney. I mean, it  
6 was very obvious they were putting flyers places and driving  
7 vans around. It was -- we had enough people and loved ones  
8 in Australia that we knew the next day.

9 Q    And you heard from those loved ones?

10 A   Yes.

11 Q   And they reported to you that they had seen these  
12 protests and actions directly?

13 A   Yes.

14 Q   Were you aware that there was also a protest occurring  
15 outside of Mr. David's business?

16 A   I -- yes. Later that day, I knew that they had moved  
17 from our neighborhood to the business. I wasn't there  
18 personally to witness it, but I knew of it. I had seen some  
19 cell phone footage of it.

20 Q   If I can, there's a binder in front of you with tabbed  
21 exhibits.

22                   If I can have you turn to Exhibit Number 9, so tab  
23 number 9.

24                   Do you recognize the document that's at Exhibit  
25 Number 9?

1 A Yes, it's an e-mail that Adam Kazal sent to my husband.

2 Q And this was sent on October 27th, 2016, so the day  
3 after that protest in front of your home?

4 A Correct. Yes.

5 MR. TAYLOR: Lacks foundation, Your Honor.

6 THE COURT: The document's already into evidence.  
7 I'm not sure why we're talking about a document that's  
8 already been admitted and testified to through another  
9 witness.

10 So the objection's overruled, but it's your time,  
11 Counsel.

12 MR. GEBELIN: Thank you.

13 BY MR. GEBELIN:

14 Q Do you recall seeing this e-mail about the same time  
15 that it was sent to your husband?

16 A Yes. The same day.

17 Q In viewing this e-mail, did you take it to mean -- to  
18 have any sort of meaning towards you or your husband?

19 A Meaning, in what regard?

20 Q Did you take it as a threat or anything else of that  
21 nature?

22 A Oh, definitely. The last two sentences of that e-mail  
23 were very alarming to me. The idea that I'll show you how  
24 Adam Kazal is different to the rest of my family resonated  
25 because I know that Mr. Kazal in the past had threatened a

1     journalist for the *Sydney Morning Herald* by saying, you  
2     know, if you keep writing about my family, I'm going to make  
3     sure that you and I are on the front page of the newspaper,  
4     which seemed to me very much a threat of violence against  
5     this journalist. So this seemed to follow the pattern of  
6     sort of irrational, outside-the-bounds-of-the-law behavior.

7             If you have a problem with a journalist, sue them  
8     for defamation. Don't threaten violence on them. Don't go  
9     to their wife and child and bang on the door when you know  
10    that the journalist isn't home. I mean, it's just, as I  
11    said, it's such thuggish behavior.

12            THE COURT: Counsel, can you ask the next  
13    question.

14            MR. GEBELIN: Yes, Your Honor.

15    BY MR. GEBELIN:

16   Q     Did you see any other communications from Mr. Kazal  
17   following this e-mail?

18   A     I know there was an e-mail he sent to our attorney in  
19   Sydney, when we had requested they cease and desist the  
20   activities that I'm sure is probably somewhere in evidence  
21   but --

22   Q     Can you turn to Exhibit Number 12, please.

23            Is this the e-mail that you're referring to?

24   A     Right, about the money transfer of \$666,666.66.

25   Q     Does that number stick out to you for any reason?

1 A I mean, I think it's obviously meant as a threatening  
2 number. Everyone knows that 666 is the sign of the devil,  
3 so clearly it's intended to convey something evil.

4 It seemed like a clear, you know, if you fail to  
5 meet my demands, I reserve the right to do whatever is  
6 necessary.

7 The language of the e-mail to me said, yes, I'm  
8 willing to go outside the bounds of the law.

9 Q If I can have you turn now just to another exhibit  
10 we've seen before, Exhibit Number 11. That's a Tweet?

11 A Right, the Twitter account.

12 Q And you recognize -- did you see this Twitter message  
13 about the time that it was made in October --

14 A Right. Again, late October. The idea of a team in  
15 L.A., you know --

16 THE COURT: Counsel, can you ask the next  
17 question, please.

18 BY MR. GEBELIN:

19 Q And what message towards your safety and your family's  
20 safety did you take from this message?

21 A That there was a threat to our safety. That he had a  
22 team in L.A. They were going to follow us wherever we go.  
23 That was the message conveyed to me from the -- that Tweet.

24 THE COURT: Counsel, next question please.

25

1 BY MR. GEBELIN:

2 Q Do you remember any other actions in November 2016  
3 relating to the Kazals?

4 A Yes, there was another round of protests that started  
5 in early November, this time with many more people and the  
6 people were much more aggressive. There was a van that I  
7 believe you guys have seen pictures of that was parked where  
8 the protestors were again between my home and my children's  
9 school.

10 Q Was there anything that stood out to you about that van  
11 in particular? The way it was decorated; the way people  
12 were acting with it?

13 A Well, it was obviously intended to embarrass my  
14 husband, cause distress to us, claim he had committed some  
15 horrendous crime that, of course, never committed. You  
16 know, it was to me like a giant conspiracy theory, and it's  
17 really hard to prove a negative. How do you prove something  
18 that didn't happen?

19 THE COURT: Counsel, next question, please.

20 BY MR. GEBELIN:

21 Q Were there any people there with the van?

22 A Yes. In November, there were, as I said, there were  
23 more protestors, and they were more vocal and more  
24 aggressive than the first time.

25 Q Do you remember anything that they said or any of the

1 aggressive actions they took?

2 A You know, after the -- after the first time I insured  
3 that when I had to drive past them, especially with the kids  
4 in the car, baseball hats, sunglasses, put the visor down.  
5 I was afraid they might be filming my children. I never  
6 stopped or went -- I went as quickly as I could past them  
7 without engaging them. So I don't have a specific recall.  
8 I just know they were saying things outside of my car, but I  
9 don't know exactly what they were saying.

10 Q By this point, were you in fear for your safety or your  
11 family's safety?

12 A Oh, by this point -- I mean, I had already -- I would  
13 say within 48 hours of the first protest in October, I had a  
14 security company come and change all the locks on all the  
15 doors in our house to some special locks that you can't get  
16 copied, that are hard to bump out.

17 I had CCTV cameras installed, I had motion sensor  
18 lights installed, and I hired an armed security company to  
19 come and monitor the street 24 hours a day. They had to  
20 send me a report looking for suspicious activity and  
21 suspicious vehicles on the street. So we were most  
22 definitely concerned for our safety. Most definitely.

23 Q Other than the first day that the protestors came and  
24 you called the police, were there any other times you called  
25 the police in connection with either protests or being

1 surveilled?

2 A The first day of the protest that happened in November  
3 with the vans, I called the police that day. The police  
4 were at my house when the vans and several other cars chose  
5 to slowly drive by my house, me, filming me, going up the  
6 cul-de-sac, turning around, very slowly filming me the  
7 entire time. It was like they were taunting me. Like the  
8 fact that you have the police here doesn't scare us at all.  
9 We're just going to drive by slowly and --

10 THE COURT: Next question, Counsel.

11 THE WITNESS: And there was another time after  
12 that.

13 THE COURT: Ma'am, I'm sorry. He has a  
14 responsibility -- not blaming you -- he has a responsibility  
15 to ask you questions and then get answers from you, so I'm  
16 going to keep interrupting until he does what I'm asking him  
17 to do, which seems to be more and more difficult.

18 But go ahead, Counsel.

19 BY MR. GEBELIN:

20 Q What was the other time that you called the police?

21 A When I felt that I had been followed. There was a  
22 white van that I had felt had been following me much of the  
23 day, and it was parked on the end of my street. And I  
24 called the police that day as well.

25 Q Was that also in 2016?

1 A Yes. That would have been sometime in November.

2 Q Following that time calling the police, have there been  
3 any other times where you felt like you were being followed?

4 A I think I probably had a sense of being followed  
5 multiple times. Even to this point, I take photographs of  
6 unusual cars, unfamiliar cars. Two days ago, I was taking  
7 photographs of license plates of unfamiliar cars on my  
8 street. I always feel like I am looking over my shoulder.  
9 I always feel like the hair on the back of your neck is sort  
10 of on high alert for people who look at you the wrong way,  
11 cars that seem out of place, that sort of thing.

12 Q If I can, can you take a -- flip now to Exhibit  
13 Number -- marked Number 28 in the book.

14 On this exhibit, there are a few photographs on  
15 the first and second page.

16 Do you recognize the person in the photographs?

17 A It's me.

18 Q Do you recognize about where those photographs were  
19 taken?

20 A I couldn't say for sure. I have not seen these  
21 photographs before you showed them to me about an hour ago.  
22 I didn't know they existed.

23 Q Based on anything in the photographs or the document,  
24 can you tell about when the photographs were taken?

25 A Well, the document is dated Wednesday, December 28,

1 2016, and the text says: "I've also attached the latest  
2 pics of his wife." So that suggests to me that they were  
3 taking photographs of me some time in December of 2016.

4 MR. GEBELIN: Your Honor, I'd like to move  
5 Exhibit 28 into evidence.

6 THE COURT: Any objection?

7 MR. TAYLOR: No objection, Your Honor.

8 THE COURT: All right. Twenty-eight will be  
9 admitted.

10 (Exhibit 28 received in evidence.)

11 BY MR. GEBELIN:

12 Q Earlier we talked about an incident in Australia where  
13 you had been followed by an investigator.

14 Do you remember talking about that?

15 A Yes.

16 Q Were there any -- other than that, other than the  
17 protestors that we've talked about, other than the e-mail  
18 messages or the tweets that we talked about, do you have any  
19 other reason to believe that the actions that we just talked  
20 about were threats against you and your family?

21 A Yes. Rodric was followed with a business associate in  
22 the central business district of Australia by two of the  
23 Kazal brothers who were making threatening -- swinging  
24 something in a threatening manner. There was a police  
25 report in Australia that was filed about that.

1                   There was an incident where my father-in-law  
2 actually issued an apprehended violence order by the New  
3 South Wales Police because of an assault in Sydney by one of  
4 the Kazal brothers.

5 Q       Did you ever talk with members of Mr. David's family  
6 about intimidation by the Kazals?

7 A       Oh, yes. Nobody could understand how this could be  
8 happening where people were being accosted in the middle of  
9 the central business district by various Kazal family  
10 members. We talked about it frequently.

11               I took my children back to Australia and spoke to  
12 my in-laws about it in 2013 and were shown some very  
13 disturbing text messages and told of some very disturbing  
14 voice messages.

15 Q       Just to be very clear about this, in 2016, after the  
16 protests started, were you afraid for the safety of yourself  
17 or your family?

18 A       Absolutely. I had always been a little bit afraid for  
19 our safety -- I mean, from the moment we left Australia, I  
20 was in fear for our safety. The 2016 protest just seemed  
21 like another escalation of what seemed to be incredibly  
22 irrational, thuggish behavior.

23               THE COURT: Next question, Counsel.

24 BY MR. GEBELIN:

25 Q       Based on your interactions with your husband, was he

1 afraid for the family himself --

2 A Absolutely.

3 Q -- you and your family?

4 A He had been afraid for his immediate family and his  
5 father from the time of 2013 when he was assaulted by  
6 Adam Kazal in The Rocks. He's been afraid for us since  
7 basically we moved to the United States. He tries to put on  
8 a brave face for everyone, but --

9 Q Despite this brave face, did you notice Mr. David being  
10 in emotional distress?

11 A Absolutely. I mean --

12 Q How so? What did you see?

13 A He basically stopped sleeping. He would be up at  
14 midnight and 4:00 in the morning driving the streets to see  
15 if there were people there. Yeah, he really basically  
16 stopped sleeping. I could tell that was taking a terrible  
17 toll on his emotional state, but again he was trying to keep  
18 me sane to a degree and keep the children from being more  
19 afraid than they already were. The children had no idea  
20 what was going on.

21 MR. GEBELIN: Thank you, Ms. David.

22 No more further questions at this time,  
23 Your Honor.

24 THE COURT: All right. Cross-examination.

25 ///

**1** | **CROSS-EXAMINATION**

2 | BY MR. TAYLOR:

3 Q Good afternoon, Mrs. David. I thank you for being  
4 here.

5 My name is Mr. Benjamin Taylor, and I'm an  
6 attorney for the defendants in this case, and I have a few  
7 questions for you.

8 You testified a few moments ago about your  
9 husband's business dealings with the Kazals starting around,  
10 I think, 2008, 2009.

11 Do you recall that testimony?

12 A Yes.

13 Q And just to be clear, your husband was the one in your  
14 family who was dealing with the Kazals on the business side;  
15 right?

16 A Yes.

17 Q You weren't personally involved in the business  
18 venture; right?

19 | A No.

20 Q Now, in regard to the protestors who appeared in your  
21 neighborhood on the morning of October 26, 2016, those  
22 protestors who you saw on the first day, they didn't make  
23 any threats of physical harm to you or your children, did  
24 they?

25 A No. I don't believe I -- I don't believe the

1 protestors on the 26th, I don't believe they said anything.

2 Q And they didn't attempt to strike you or lay hands on  
3 you in any way, did they?

4 A No.

5 Q And none of those people ever tried to come onto your  
6 property; right?

7 A Not the first day. I believe on the second round of  
8 protestors, they were coming very close to being on my  
9 property.

10 Q When you say "they," you mean the person driving the  
11 van?

12 A There were also other people up and down the street a  
13 lot. It was a very unpleasant time because I didn't ever  
14 know who was -- who these people were. Were they people  
15 that the Kazals had flown out from Australia that had some  
16 personal vendetta or interest in the case. At the time I  
17 had no idea that they were people they had hired. I just  
18 knew that there were a lot of strange adult men around my  
19 house and my children's school and our property, and it was  
20 incredibly unnerving.

21 I still feel like I have to close my garage door  
22 before I unlock my car doors. I still have to get in my car  
23 and lock my car doors before I open my garage door because  
24 I'm always certain there's going to be somebody around the  
25 side who's going to come in and attack me. And that all

1 stems from having all those people on the street that I  
2 didn't know what their intentions were and combined --

3 THE COURT: Next question, Counsel.

4 BY MR. TAYLOR:

5 Q But, again, none of the people who were actually there  
6 tried to come in and attack you; right?

7 A No.

8 Q None of them tried to break into your house, did they?

9 A Not as far as I know.

10 Q Now, you -- I think, you said you called the police  
11 because you weren't sure what else to do; right?

12 A On the first day.

13 Q Right. And what did you tell the police when you  
14 called -- I guess you called 9-1-1; right?

15 A Yes.

16 Q Do you recall what you told the operator?

17 A As I said, I was sort of in shock that morning. It was  
18 early -- the father had called, mentioned the posters. I  
19 went down -- my daughter was young and still at the house,  
20 and I was -- I don't have a good recollection of what I said  
21 to the 9-1-1 officer, but I was pretty panicked at that  
22 stage.

23 Q Did you tell the 9-1-1 dispatcher, if you recall, that  
24 there were some protestors outside in connection with a  
25 business dispute involving your husband?

1 A That makes sense because that was what I perceived it  
2 to be.

3 Q Do you recall telling the 9-1-1 dispatcher that your  
4 husband was in a dispute with a Lebanese man?

5 A I may have.

6 Q Is there some reason you would have done that,  
7 referring to the Kazals as Lebanese?

8 A Probably to illustrate that it wasn't an American who  
9 was the person who was involved in the dispute, to alert the  
10 authorities to the fact that we had been followed across the  
11 ocean by people and they were now on U.S. soil, harassing us  
12 on U.S. soil, and that the other individual was not a U.S.  
13 person. That would have been why I would have mentioned  
14 that he was Lebanese.

15 Q But you had met Charif Kazal many years earlier; right?

16 A Yes.

17 Q And you met him in Australia; right?

18 A I'm not -- yeah, probably.

19 Q But you knew he was Australian?

20 A I'm not sure I know that he's Australian.

21 Q You've heard him speak before; right?

22 A Uh-huh.

23 Q He speaks with an Australian accent, doesn't he?

24 A I don't believe he does, no.

25 Q But you knew that the Kazal family lived in Australia

1 at the time, not in Lebanon; right?

2 A Okay.

3 Q I'm asking you. You knew that; right?

4 A I'm not sure I knew where the Kazals lived in 2016.

5 Q I see. So you thought maybe they lived in Lebanon?

6 A As I said, I believe they live a lot of different  
7 places, including Dubai and the Middle East, so I couldn't  
8 begin to tell you where I thought they lived in 2016 because  
9 I had no idea where they lived in 2016.

10 Q Did you think that the police would take your call more  
11 seriously if you told them that someone from an Arab country  
12 was involved, rather than someone from Australia?

13 A Absolutely not.

14 Q Now, when you found out that there were protestors  
15 outside on the morning of the 26th of October, did you go  
16 outside and take a look at the protestors yourself?

17 A I did.

18 Q Did you speak to them?

19 A I don't recall. As I said, I had left my daughter. My  
20 husband was not home yet, I left my daughter at home. I  
21 actually drove my car down the street and got out of my car.  
22 And, as I said, I believe I was in a state of shock. I know  
23 there's some correspondence where Tony -- one of the Kazals  
24 calls me a screaming hyena. The fact is I was a sort bear.  
25 I was out there in shock trying to do what I could do to

1 protect my children from having to see this.

2 THE COURT: Ms. David, just so I'm clear, you  
3 don't recall what, if anything, you said to them?

4 THE WITNESS: To the protestors, no, I don't  
5 recall what I said to the protestors.

6 THE COURT: Question, please.

7 MR. TAYLOR: I would move to strike that last  
8 response.

9 If you can please answer my question directly.  
10 Listen very closely so we can get a clear record.

11 BY MR. TAYLOR:

12 Q You don't recall going outside to speak with the  
13 protestors, is that what you just said?

14 A I recall driving down. I recall calling the police. I  
15 recall the police coming. My -- I don't recall talking to  
16 the protestors.

17 Q Thank you.

18 Now, you did go outside and take photos and film  
19 the protestors with your phone; right?

20 A I did.

21 Q And that was on the first day; right?

22 A That was -- yes.

23 Q And on the later days in November, you also went  
24 outside and took --

25 A I don't believe so. I believe I avoided the November

1 protest as much as possible. But it seems to me like you're  
2 going to suggest they've been filming me the whole time and  
3 you'll be able to let us know if I spoke to them or not.

4 Q I'm just asking you for your recollection right now.

5 A My recollection is taking photographs only on the first  
6 day, and on the subsequent days -- I avoided the van and the  
7 protestors that were there on the subsequent days.

8 Q The first day you went outside, you said you took some  
9 video and photos with your phone. From what distance did  
10 you do so, meaning relative to the protestors?

11 A A couple of feet. It's not a very wide street, so -- I  
12 mean, if I was standing in the middle of the street, I would  
13 be maybe 3 feet from a protestor on this side and 3 feet  
14 from a protestor on that side. I mean, there's not a lot of  
15 distance where you could stand to take video or photographs.

16 Q You testified a few minutes ago that there was some  
17 kind of violent incident involving a car and being followed  
18 and a cell phone. That was in 2011, you said?

19 A I believe it was early 2011.

20 Q And to be clear, it wasn't actually any one of the  
21 Kazal brothers who actually did what you were describing;  
22 right?

23 A I believe Tony Kazal was the one who hired the man who  
24 followed me.

25 Q But it wasn't Mr. Kazal himself who you think was the

1 one following you?

2 A I didn't say it was Mr. Kazal himself. Mr. Kazal hired  
3 the man who was following me.

4 Q But you don't know that for sure, you're just  
5 assuming --

6 A I believe it's in evidence. I believe we have evidence  
7 that Tony Kazal hired the investigator who followed me that  
8 day. Who also happens to be the man who came to Los Angeles  
9 to organize the protest on behalf of the Kazals as well.

10 Q So was it your understanding that the Kazals were  
11 willing to do things like the incident you just described as  
12 early as 2011?

13 A Well, before -- even before that, I would say.

14 Q I think you described it as irrational or violent  
15 behavior?

16 A I think it was out of the bounds of how people behave  
17 normally in a commercial dispute. It raised alarm bells for  
18 me that people who are in a commercial dispute would do some  
19 of the things that they were doing.

20 Q And I believe you testified a few moments ago that you  
21 considered the appearance of the protestors in 2016 to be an  
22 escalation, I think was your term; right?

23 A Yes.

24 Q So is it your testimony that even though you believe  
25 the Kazals had been willing to engage in violent activity as

1 early as 2011, that the appearance of some protestors in the  
2 street was an escalation?

3 A I think when you look at what was combined happening  
4 here and in Australia and the level of time and effort that  
5 one would have to put into this sort of vengeance campaign,  
6 it definitely was an escalation to sending text messages.

7 Q Are you familiar with an individual named  
8 Matthew Price?

9 A Yes.

10 Q How do you know him?

11 A He's -- he and his wife are friends of mine.

12 Q And how long have you known them?

13 A Probably since 2012.

14 Q Were you aware at the time the protestors appeared in  
15 your neighborhood for the first time in October of 2016 that  
16 Mr. Price had been working as the chief technology officer  
17 at Thunder Studios?

18 A I believe so.

19 Q And were you also aware at that time that Mr. Price had  
20 created and registered domains for five websites in the name  
21 of the Kazal family?

22 MR. GEBELIN: Objection, Your Honor. Lacks  
23 foundation.

24 THE COURT: If she knows, she may answer.

25 THE WITNESS: I did not know that.

1 BY MR. TAYLOR:

2 Q So you did not know that Mr. Price had created a  
3 website called Adamkazal.com?

4 MR. GEBELIN: Objection. Lacks foundation for the  
5 presupposed conclusion that Mr. Price created that.

6 THE COURT: Objection is noted but overruled. She  
7 can answer if she knows.

8 THE WITNESS: I did not.

9 BY MR. TAYLOR:

10 Q Now, we looked at Exhibit 11 a few moments ago when  
11 Mr. Gebelin was questioning you. If you can turn back to it  
12 for a moment, I'd appreciate it.

13 There it is. Do you have the document in front of  
14 you?

15 A I do.

16 Q You said you saw this tweet around the time that it was  
17 posted, in 2016?

18 A I believe so, yes.

19 Q And you said you understood it to mean that Adam Kazal  
20 was willing to have your family followed?

21 A Well, I think the language in terms of suggesting that  
22 he has a team in L.A. and the "expose you wherever you go"  
23 to me, and a team, feels like a physical sense. I have a  
24 team. We're going to follow you wherever you go. That was  
25 what I took from reading it.

1 Q This tweet was directed to Rodric David; right?

2 A Correct.

3 Q And it said "expose you," not "follow you"; right?

4 A It does say "expose you," but the meaning that I took  
5 from it was alarmed that he had a team in Los Angeles and  
6 that "wherever you go" suggests: We know where you are.

7 They clearly knew where we were. They were at my  
8 house. They were near my kids' schools. They were at my  
9 husband's business. It's not a big leap to think that it's  
10 a frightening thing to have a team of people from somebody  
11 who considers you a bitter enemy, threatening to follow you  
12 wherever you go when they're already turning up to the  
13 places that are most important to you.

14 Q The police came to the neighborhood in response to your  
15 call on the first day and they came into your house  
16 afterwards; right?

17 A That -- I think the timing on that might be incorrect.  
18 The first call on October 26th, I don't believe they came  
19 into the house that time. I think the discussion was had on  
20 the street.

21 As I said, I eventually got my daughter to school  
22 that morning. So the police did not come into that house  
23 that morning because I remember putting her in the car,  
24 telling her to keep her head down, putting the visor down,  
25 turning the other way to go to the school the back way.

1                   So I know -- I am 99 percent sure the police  
2 didn't come into the house that day. I know the second time  
3 I called they did, in fact, come to the house and come into  
4 the house. That would have been the first day of the  
5 protest with the van.

6 Q           It's correct, isn't it, that on the first day the  
7 police told you and your husband that there was a right to  
8 peaceful protest; correct?

9 A           Something to that effect, yes.

10 Q           And that's true; right? You're aware there's a  
11 constitutional right to protest?

12 A           Yes, I'm aware of that.

13 Q           And there's a constitutional right to free speech in  
14 this country; right?

15                   MR. WIENER: Your Honor, I'm going to object.

16                   THE COURT: I'm sorry, Counsel. Who's doing the  
17 objection for the plaintiffs' side for this witness? Is it  
18 a tag team effort, or is it one lawyer?

19                   MR. WIENER: I'll defer to Mr. Gebelin.

20                   THE COURT: Why don't you please sit down, then.

21 Thank you.

22                   Go ahead.

23 BY MR. TAYLOR:

24 Q           Thank you, Your Honor.

25                   I'm not sure if you answered my question. I said

1 you're aware there's a constitutional right to free speech  
2 in this country; right?

3 A Yes, of course.

4 MR. TAYLOR: Okay. Nothing further, Your Honor.

5 Thank you.

6 THE COURT: All right. Mr. Gebelin.

7

8 REDIRECT EXAMINATION

9 BY MR. GEBELIN:

10 Q Just very briefly.

11 Ms. David, do you know if any of the defendants  
12 are American citizens?

13 A I don't know for sure.

14 Q Do you --

15 A I don't believe they are.

16 Q So you don't believe that Charif Kazal is an American  
17 citizen?

18 A I do not believe he is.

19 Q Do you have any understanding as to whether or not  
20 Adam Kazal is an American citizen?

21 A I do not believe he is.

22 Q Do you have any understanding as to whether Tony Kazal  
23 is an American citizen?

24 A I do not believe he is.

25 Q Do you have any understanding as to whether or not

1 non-American citizens have First Amendment rights?

2 A I do not know one way or the other, but I --

3 THE COURT: Next question, Counsel.

4 MR. GEBELIN: Thank you.

5 BY MR. GEBELIN:

6 Q Do you have any understanding whether or not -- based  
7 on your experience with the Kazals, do you have any  
8 understanding of whether or not any of them have -- strike  
9 that.

10 No further questions, Your Honor.

11 THE COURT: All right. Mr. Taylor.

12 MR. TAYLOR: Nothing further, Your Honor.

13 THE COURT: May this witness be excused?

14 MR. GEBELIN: Yes, Your Honor.

15 THE COURT: All right. Thank you, ma'am. You may  
16 step down. Have a good afternoon.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Counsel, you may call your next  
19 witness.

20 MR. WIENER: Sure. Your Honor, the witness should  
21 be in the hallway. Is it okay if I exit?

22 THE COURT: Please do.

23 Ladies and gentlemen, I read an article recently  
24 that said sitting down is like smoking, so feel free to  
25 stretch if you'd like while we're waiting for the witness.

1 We can't do it while the witness is testifying, but while  
2 we're waiting, feel free to stretch. That didn't apply to  
3 the parties. I'm just kidding.

4 THE CLERK: Please raise your right hand.

5 PAUL KOLESA, PLAINTIFFS' WITNESS, SWORN

6 THE CLERK: Thank you. Please be seated.

7 Please state and spell your name for the record.

8 THE WITNESS: Paul, P-a-u-l, K-o-l-e-s-a.

9 THE COURT: You may proceed, Mr. Wiener.

10

11 DIRECT EXAMINATION

12 BY MR. WIENER:

13 Q Mr. Kolesa, can you tell me, are you employed at  
14 Thunder Studios?

15 A Yes.

16 Q What is your job description at Thunder Studios?

17 A Chief risk officer. I cover I.T., information  
18 security, digital assets, intellectual property.

19 Q How long have you worked at Thunder Studios?

20 A Since November 2016.

21 Q Were you the person responsible for monitoring  
22 Thunder Studios' photographs?

23 A Yes.

24 Q When did you become aware that Thunder Studios'  
25 photographs were being used on the website

1 **www.kazalfamilystory.com?**

2 **A The later part of 2016, possibly around September.**

3 **Q Did you discuss that issue with Mr. David?**

4 **A I -- at that time, I was a contractor at**  
5 **Thunder Studios working for UTG I would have discussed it**  
6 **with my direct boss, Matt Price.**

7 **Q When did you begin as a contractor at Thunder Studios?**

8 **A June 2016.**

9 **Q All right. Do you know if Mr. David made a request to**  
10 **have photographs copyrighted?**

11 **A Yes.**

12 **Q Did you file a Digital Millennium Copyright Complaint**  
13 **with GoDaddy in October of 2016?**

14 **A Yes, I did.**

15 **Q I'd like you to turn to Exhibit 4 in the binder.**

16 **Is this a true and correct copy of the complaint**  
17 **that you filed?**

18 **A Yes.**

19 **Q All right. And you filed this complaint on or about**  
20 **October 13th, 2016?**

21 **A Yes, that's correct.**

22 **MR. WIENER: Your Honor, I'd like to move**  
23 **Exhibit 4 into evidence.**

24 **THE COURT: I think Exhibit 4 is already in**  
25 **evidence.**

1                   MR. WIENER: I believe Your Honor is correct. I  
2 wasn't positive. Thank you.

3 BY MR. WIENER:

4 Q       What was the complaint made in reference to,  
5 specifically?

6 A       We noticed that pictures were taken from our website,  
7 defaced and used on their website. If -- if I think back  
8 specifically, I remember one with Rodric David and the  
9 recording artist Tyga. One that might of had Whoopi  
10 Goldberg in it that was taken on a movie set. A few that  
11 were taken from automotive shoots.

12 Q       Was there a response made to the complaint?

13 A       They didn't respond to the DMCA request.

14 Q       This reflects that there was correspondence from an  
15 individual named Ronald Richards to GoDaddy?

16 A       That's correct.

17 Q       Who do you understand Ronald Richards to be?

18 A       I believe he was an attorney.

19 Q       And in response, did he state that his office had been  
20 retained by the site?

21 A       Yes, yes, he did.

22 Q       Did he identify specifically the name of the  
23 individuals or individual who had retained him?

24 A       I don't believe he named them specifically.

25 Q       All right. In the response, it references that: "We

1 spoke with the complainant, Paul Kolesa, this morning."

2 Did you speak with Mr. Richards?

3 A Yeah. He called me one morning and kind of tried to  
4 give me some, I guess, for lack of a better term, a legal  
5 threat.

6 Q And is that reflected here where it says that -- in  
7 Mr. Richards' response, he claims that the DMCA complaint,  
8 quote, "has no merit and exposes him to damages," end quote?

9 A Yes, that's correct.

10 Q Do you believe the DMCA complaint exposed you to  
11 damages?

12 A No, I do not.

13 Q Do you believe that Mr. Richards was attempting to  
14 threaten you?

15 A I got that impression, yes.

16 Q Do you know if the photographs were removed from  
17 Kazalfamilystory.com in response to this complaint?

18 A No.

19 Q What happened instead?

20 A When they failed to respond to the DMCA request,  
21 GoDaddy suspended their hosting.

22 After they were suspended on GoDaddy, they  
23 temporarily tried to move to another U.S-based hosting  
24 company that was a subsidiary of ipage, Inc. Once the site  
25 went up on ipage, I called and spoke to them that day,

1 explained that they failed to respond to a DMCA request,  
2 they immediately suspended their hosting there. Then the  
3 site was down for a short period of time.

4 Q Did the website eventually come to be transferred to  
5 Orange Website?

6 A Yes. Yeah, after about two, three weeks' time.

7 Q I'd like you to turn to Exhibit 3 in the binder.

8 A Yeah.

9 Q Do you understand this to be a GoDaddy record regarding  
10 Kazalfamilystory.com?

11 A Yes.

12 Q And if you look about approximately ten lines down, it  
13 states transferred away date, October 25th, 2016.

14 What do you understand that date to mean?

15 A That would probably be the date that the domain name  
16 was transferred away from GoDaddy.

17 Q And can you tell from this document where the domain  
18 name was transferred to?

19 A Yeah. I can see under the name service listing where  
20 it says NF7.orangewebsite.com, that's an Orange Website DNS  
21 server.

22 Q Can you also tell from this document who the registrant  
23 of the website Kazalfamilystory.com is?

24 A The name's listed as Jean Ghalo.

25 Q Do you see the name Joe Dabab anywhere on this

1 document?

2 A No, I do not.

3 Q Do you understand this document to mean that the  
4 registrant of the website was Jean Ghalo?

5 A That's how it appears.

6 Q And can you tell from this document where Jean Ghalo is  
7 located?

8 A Beirut.

9 Q Is that --

10 A In Lebanon. Beirut, Lebanon.

11 Q Do you have any understanding of what Orange Website  
12 is?

13 A I do. It's an Icelandic-based hosting company. Being  
14 based in Iceland, it's not covered by U.S. or EU copyright  
15 law, so I believe the move there was most likely to avoid  
16 DMCA further action.

17 Q In December 2016, did Thunder Studios file copyright  
18 registrations for certain of the Thunder Studios'  
19 photographs?

20 A Yes.

21 Q Can you verify that the copyright registrations are  
22 attached -- are Exhibits 23 and 24 in your binder?

23 A Yes.

24 Q And were you the person responsible for registering  
25 these photographs?

1 A Yes, I was.

2 Q How did you verify the dates of publication of the  
3 photographs?

4 A These were when they were posted on our website.

5 Q And you verified the dates they were first posted on  
6 the website?

7 A Yes.

8 Q Were there any technology measures on Thunder Studios'  
9 website to prevent the photographs from being copied?

10 A No, it's not common.

11 Q So would it be possible for the photographs during this  
12 time period, after having being registered, would it be  
13 possible for somebody to copy the photograph?

14 A Yes.

15 Q Did the terms of use of Thunder Studios' website  
16 prohibit copying of its photographs?

17 A Yes.

18 Q And their terms of use were visible on the website in  
19 December 2016?

20 A Yes, they were.

21 Q And I'd like you to briefly turn to Exhibit 25.

22 Are you familiar with these terms of use?

23 A Yes.

24 Q And there's a correct copy of the terms of use as they  
25 appeared on Thunder Studios' website in December 2016?

1 A Yes.

2 Q Do you know if the Kazals copied photographs on the --  
3 strike that.

4 Do you know if the copyrighted photographs were  
5 copied on Kazalfamilystory.com in 2017?

6 A Yes, they were.

7 Q Did you contact Orange Website to request that they  
8 take down the photographs?

9 A I tried to contact Orange Website multiple times. I  
10 never received a response back.

11 Q How did you try contacting Orange Website?

12 A Through all the contact forms on their website. I  
13 tried using the abuse report contact. From my  
14 understanding, they won't respond to anybody but an  
15 Icelandic court.

16 Q I would like you to turn to Exhibit 31.

17 Do you recognize this Web page?

18 A Yes.

19 Q Can you explain to the jury what it is, the first page.  
20 It's Bates-stamped in the lower right-hand corner  
21 Plaintiffs' 1870.

22 A This is the main Rodric David landing page from  
23 Kazalfamilystory.com.

24 Q Do you recognize the photograph on this page?

25 A I do.

1 Q Is it one of the copyrighted photographs?

2 A It is, yes.

3 Q And it's correct, the original photographs didn't  
4 include the label that you see here?

5 A No, they didn't.

6 Q Did any of the photographs on Thunder Studios' website  
7 contain derogatory statements about Mr. David?

8 A No, they did a little photoshopping.

9 Q Did anyone ever seek authorization or consent to use  
10 the photographs?

11 A No.

12 Q Do you recognize this as one of the copyrighted  
13 photographs in Exhibits 23 and 24?

14 A I do, yes.

15 Q Can you identify for the jury what is the name of this  
16 photograph?

17 A Off the top of my head, it's "Rodric David Meeting  
18 Distribution 101." I can verify that.

19 Q If it makes it easier, Mr. Kolesa, if you want to  
20 remove Exhibits 23 and 24 so you don't have to flip back and  
21 forth as much.

22 A Okay.

23 "Rodric David Meeting Distribution 101 RD Featured  
24 Image."

25 Q I'd like you to turn to the document Bates-stamped

1 Plaintiffs' 1875.

2 Do you recognize this as one of the copyrighted  
3 photographs?

4 A Yes.

5 Q What is the name of this photograph as it appears in  
6 the copyright registration?

7 A I believe it's "Rodric David Orange McLaren."

8 Q I'd like you to turn next to page Plaintiffs' 1880.

9 Is this one of the copyrighted photographs?

10 A Yes.

11 Q Can you identify for the jury what the name of this  
12 photograph is?

13 A "Rodric David with Channel West Coast."

14 Q I'd like you to turn to the document Bates-stamped  
15 Plaintiffs' 1885.

16 Do you recognize this as one of the copyrighted  
17 photographs?

18 A Yes.

19 Q Can you identify for the jury the name of this  
20 photograph as it appears in the copyright registration?

21 A "Rodric David Tesla P90D."

22 Q I'd like you to turn next to the document Bates-stamped  
23 Plaintiffs' 1983.

24 Is this one of Thunder Studios' copyrighted  
25 photographs?

1 A Yes.

2 Q Can you identify for the jury what its name is as it  
3 appears in the copyright registration?

4 A I believe it's "Rodric David Blue R8," but let me just  
5 verify that. It's just called "Audi R8 Dec 13."

6 Q I'd like you to turn to the document Bates-stamped  
7 Plaintiffs' 1897.

8 Do you recognize this photograph as one of Thunder  
9 Studios' copyrighted photographs?

10 A Yes.

11 Q And can you identify for the jury what the name of the  
12 photograph is as it appears on the copyright registration?

13 A Let me just check the exact name. "Rodric David  
14 Interview Launch Party."

15 Q Thank you.

16 By the way, the headline of this Web page is that:  
17 Rodric David used his L.A.-based Thunder Studios' employees  
18 to commit crimes on his behalf.

19 Did you commit any crimes on behalf of Mr. David?

20 A No.

21 Q Did he ever ask you to engage in any criminal activity?

22 A Never.

23 Q Do you know what this is made in reference to?

24 A This is typical with what we would see when they would  
25 send e-mails through to Thunder Studios. They would address

1 them to Rodric, any Thunder Studios staff member they could  
2 find an e-mail address for. It would -- they would direct  
3 insults at Rodric, make accusations at him, make accusations  
4 at staff members, threaten legal action, make wild claims  
5 about news organizations. This is common.

6 Q Were you a recipient of any of these e-mails?

7 A We had e-mail filter rules in place to prevent them  
8 from reaching general staff. I'd seen them before because I  
9 monitored the in-box that they were directed to. We tried  
10 to prevent them from reaching staff members.

11 Q I'd like you next to turn to Plaintiffs' -- the  
12 document Bates-stamped Plaintiffs' 1902.

13 Do you recognize this photograph as being one of  
14 Thunder Studios' copyrighted photographs?

15 A Yes.

16 Q And are you able -- can you identify for the jury what  
17 its named as it appears in the copyright registration?

18 A "Rodric David Thunder Studios Office."

19 Q I'd like you to turn to the next page, which is  
20 Bates-stamped Plaintiffs' 1903.

21 And on the last full paragraph on this page, can  
22 you read it to the jury. The one beginning, "That's why the  
23 good guys."

24 A (Reading.) That's why the good guys always beat the  
25 bad guys in the movies. Something you and your criminal

1 associates at Thunder Studios who stole the online  
2 identities of four members of my family should keep in mind  
3 as your court proceedings advance.

4 Q Do you know, are there any criminals at  
5 Thunder Studios?

6 A No, not to my knowledge.

7 Q Did anyone steal the Kazals' identities?

8 A No.

9 Q I'd like you to turn to the document Bates-stamped  
10 Plaintiffs' 1906.

11 Do you recognize this as one of Thunder Studios'  
12 copyrighted photographs?

13 A Yes.

14 Q And can you identify the name of this photograph from  
15 the copyright registration?

16 A "Headshot of Rodric David."

17 Q I'd like you to turn to the document Bates-stamped  
18 Plaintiffs' 1910.

19 Do you recognize this as one of Thunder Studios'  
20 copyrighted photographs?

21 A Yes.

22 Q And can you identify for the jury its name as it  
23 appears on the copyright registration?

24 A "Rodric David Orange McLaren 570S."

25 Q I'd like you to turn to the document Bates-stamped

1 Plaintiffs' 1915.

2 Do you recognize this as one of Thunder Studios'  
3 copyrighted photographs?

4 A Yes.

5 Q And can you identify for the jury the name of the  
6 photograph as it appears in the copyright registration?

7 A "Rodric David Nine Elev Set."

8 Q And the final one if you can turn to Plaintiffs' 1919.

9 Do you recognize this as one of Thunder Studios'  
10 copyrighted photographs?

11 A Yes.

12 Q And can you identify for the jury the name of the  
13 photograph as it appears on the copyright registration?

14 A "Rodric David Lexus L.A. Clippers car."

15 Q One of the contentions being advanced by the defendants  
16 in this case is that they didn't copy any photographs after  
17 2015.

18 Were certain of these photographs only first  
19 published by Thunder Studios in 2016 or later?

20 A To my knowledge, yes.

21 Q And the copyright registration accurately reflects the  
22 dates they were first published on Thunderstudios.com?

23 A Yeah, I believe they got those dates directly after the  
24 website.

25 Q Were the photographs published on any other medium

1 prior to the dates reflected on the copyright registration?

2 A No. The first release of those photos would have been  
3 on our website.

4 Q Do you have knowledge if any of the photographs were  
5 published on Kazalfamilystory.com prior to having being  
6 registered by Thunder Studios?

7 MR. TAYLOR: Objection. Lacks foundation,  
8 Your Honor.

9 THE COURT: If he knows, he can answer.

10 THE WITNESS: Prior to?

11 BY MR. WIENER:

12 Q Right. The photographs were copyrighted on  
13 December 9th to December 12th, 2016, and my question was  
14 whether the Web pages I've shown you dated from 2017, wanted  
15 to know if any of them had actually been published -- to  
16 your knowledge were they published on Kazalfamilystory.com  
17 prior to being registered in December 2016?

18 A As far as I can tell, they started using our pictures  
19 on the third iteration of the website, which came around  
20 toward the end of 2016. So, yes, that's very possible.

21 Q It's very possible. When did the third iteration of  
22 the website come out?

23 A I don't know the exact date. Later in 2016, I believe.  
24 Maybe mid 2016.

25 Q All right. Do you know if any of the specific

1 photographs I've shown you had been published prior to  
2 registration?

3 A Not off the top of my head, I'm not sure.

4 Q All right. Are you aware of whether the defendants  
5 engaged in any search-engine optimization activities for  
6 Kazalfamilystory.com?

7 MR. TAYLOR: Objection. Lacks foundation. Calls  
8 for speculation, Your Honor.

9 THE COURT: Lay the foundation, Counsel.

10 BY MR. WIENER:

11 Q Sure. Can you explain what you mean "search  
12 optimization" to be?

13 A SEO is a practice of techniques that allows you to  
14 improve your rank in the Google search engine result page,  
15 making your Web page more visible.

16 Q How did you acquire that?

17 A I'm an information security specialist.

18 Q How long have you been an information security  
19 specialist?

20 A Professionally, about four years.

21 Q Have you done any training?

22 A Yes.

23 Q Can you briefly tell the jury what type of training  
24 you've done.

25 A I'm proficient in Python programming. I've trained for

1 Metasploit framework. I've done Rapid7 classes. I'm  
2 working on CEH certification, and I've done a number of  
3 open-source courses around penetration testing methodology.

4 Q All right. Can you describe, based on your  
5 understanding, what SEO activities were done for the  
6 Kazalfamilystory.com website?

7 A I know early on they did a Google Ad Words campaign.  
8 I've seen them post shortened bit links with misleading  
9 descriptions before.

10 They've posted in the comment sections of articles  
11 written about Thunder Studios.

12 I've found them posting in open message boards on  
13 random sites.

14 I've seen them backlink themselves on link farms.

15 Q Can you explain what that means to backlink?

16 A Backlinking is a technique where you get a link to your  
17 website on another reputable website. It allows you to  
18 build out a link neighborhood. The higher the SEO score of  
19 the website that's backlinking you, the better it looks in  
20 the search engine for your own website.

21 Q I'd like you to turn to the last page of Exhibit 31.  
22 It's Bates-stamped Plaintiffs' 1921, but it's overlapped in  
23 black so -- actually, it's page 1922, but it's not legible.  
24 So it's the last page of Exhibit 31.

25 A Yeah.

1 Q Do you see the black boxes in the top one-third of the  
2 page? They read Adam Kazal, Charif Kazal, John David, Karl  
3 Kazal, Kazal brothers, Kazal family, Rodric David,  
4 Tony Kazal?

5 A Yes.

6 Q Can you explain to the jury what those boxes are?

7 A Those are meta tags. You embed them in a body of a Web  
8 page. A Web browser could pick them up and it can infer a  
9 relationship between the objects that you're tagging. So by  
10 tagging their names with Rodric's name, their businesses,  
11 they're trying to draw a relationship between these items in  
12 search-engine results.

13 Q Who would be the person responsible for these  
14 meta tags?

15 A The person that's writing the post.

16 Q And did you work at Thunder Studios facility in  
17 Long Beach?

18 A Yes.

19 Q And you work there on a daily basis?

20 A Yes.

21 Q At any time, did you observe persons conducting a  
22 campaign at this studio?

23 A Yes. I was -- I was there the first day that they  
24 showed up.

25 Q Do you recall the approximate date? Was it

1 approximately October 26, 2016?

2 A I remember it was near -- the first time was toward the  
3 end of October, so that's probably correct.

4 And the second time was early -- November to mid  
5 November, I believe.

6 Q Did you see the protestors when you arrived at work?

7 A They were there already when I arrived. Yeah, I had to  
8 drive past them to get into the lot.

9 Q What time did you arrive?

10 A Around 9:30.

11 Q Did they try and block you from entering?

12 A They were standing in the driveway. They moved, but  
13 they were just yelling.

14 Q Does Thunder Studios have security guards?

15 A We do.

16 Q Do you know the names of those security guards?

17 A James and Donovan.

18 Q Did you discuss this situation with James or Donovan?

19 A I might of had a brief conversation with them.

20 Q Did they inform you if either of them had taken actions  
21 to disperse the unwelcomed guests?

22 A I don't think we did anything to try to move them on.

23 Q And did the picketers yell at you?

24 A They were -- yeah, as I was pulling into a lot, they  
25 were yelling.

1 Q Did anyone who was present express concern to you about  
2 it?

3 A Yeah, actually, we had a client that canceled last  
4 minute.

5 We missed a delivery because the driver couldn't  
6 get onto the lot.

7 Some of the employees seemed a little up in arms.

8 The clients that were there were definitely a  
9 little unsettled by it.

10 Q What was Mr. David's reaction to it?

11 A He was a little shaken up by the whole thing. He had  
12 to call us all together in the morning to explain what was  
13 going on and try to ease some of the tension with the staff.

14 Q Did the protestors make any chants or -- regarding  
15 Mr. David?

16 A Yes.

17 Q Do you recall what the chants were?

18 A Rodric the robber.

19 Q Were any of the protestors carrying signs?

20 A They were, yes.

21 Q Do you recall what the signs said?

22 A Thief, stole 180 million, c/o Adam Kazal at the bottom.

23 Q About how many days did you see this activity occur at  
24 Thunder Studios?

25 A Active protestors, I think on two separate days, but

1 they also had a van that was covered in signs that showed up  
2 pretty frequently.

3 Q What effect did you observe that these activities had  
4 on Mr. David?

5 A It seemed distressing. I mean, he certainly was made  
6 uncomfortable by it. It just looked clear that they were  
7 there to try to either damage his reputation, damage his  
8 business, have some kind of negative impact on the staff.  
9 It made everybody unsettled.

10 Q Did you view it as an escalation from the prior  
11 e-mails?

12 A I certainly did, yeah. I saw it as a clear message of  
13 for them just trying to say: We can do more than just  
14 harass you by e-mail. We can show up at your doorstep.

15 Q Did you wonder what's going to happen next?

16 A Yeah. I thought it could have, you know, an impact on  
17 our jobs. I didn't know what their next step was going to  
18 be in their campaign. It was unsettling.

19 MR. WIENER: Nothing further subject to redirect.

20 THE COURT: Mr. Taylor.

21

22 CROSS-EXAMINATION

23 BY MR. TAYLOR:

24 Q Good afternoon, Mr. Kolesa.

25 My name is Benjamin Taylor, and I'm one of the

1 attorneys for the defendants in this case. Thank you for  
2 being here.

3 I just have a few questions for you.

4 A Sure.

5 Q You may still have in front of you Exhibit 31, the last  
6 page that counsel was asking you about a few minutes ago.  
7 That's page 4 of 4 at the bottom right.

8 Are we looking at the same page?

9 A Yeah.

10 Q And the black boxes in the middle of the page, you  
11 said, were meta tags?

12 A Yeah.

13 Q You said those would be put there by the person who  
14 authored the post?

15 A Usually, yeah. In WordPress, you could add them when  
16 you're generating a post.

17 Q Are you saying that the person who wrote whatever  
18 content is on that page is necessarily also the person who  
19 put in those meta tags?

20 A Most likely.

21 Q Isn't it possible, though, that one person could author  
22 the content and then a second person who's actually putting  
23 the content on the site could then embed those meta tags?

24 A I suppose that depends on how many people are  
25 administrating your site. I mean, WordPress is fairly

1 straightforward. Normally, it's one person managing  
2 installation.

3 Q You said several times during your testimony "they,"  
4 used the word "they" plural with respect to the website, the  
5 Kazalfamilystory website.

6 You don't actually know who was the one  
7 maintaining or posting content to that website, do you?

8 A Well, I can't say with 100 percent certainty.

9 Q We looked at Exhibit 3 during your direct testimony as  
10 well. If you can flip back to that exhibit for me.

11 A Sure.

12 Q You said that this exhibit reflects that the  
13 Kazalfamilystory domain was transferred at some point in  
14 2016?

15 A Yes.

16 Q Is it correct, sir, that you can't actually tell from  
17 looking at this document who would have been the one to  
18 transfer the domain to a different hosting company, can you?

19 A I would presume by looking at this that the only person  
20 with the authority to do that would be the technical contact  
21 or the administrative contact that's listed as Jean Ghalo.

22 Q You said that you tried to contact this Orange Website  
23 company.

24 A Yes.

25 Q You went to the website for that company and tried to

1 fill out a "Contact Us" form?

2 A Yeah. I tried a "Contact Us" form, and I tried an  
3 abuse support link that came up on the report.

4 Q Was there a phone number?

5 A I believe there was an Icelandic phone number, yes.

6 Q Did you try contacting them in any other way than  
7 you've already described?

8 A No. Web form and e-mail.

9 Q Did you make any effort to contact Mr. Kazal regarding  
10 the website?

11 A No, I never tried to contact him directly.

12 Q If you can turn back to Exhibit 4, which we also looked  
13 at a few moments ago.

14 Do you have it in front of you?

15 A Yes.

16 Q Great.

17 Now, you mentioned that Mr. Richards called you  
18 and made what you said was a legal threat; right?

19 A It's the impression that I got, yes.

20 Q He told you, didn't he, that the use of the photographs  
21 he believed was what he called "fair use"; right?

22 A He did, yes.

23 Q And you also -- you told him that you didn't actually  
24 own the copyrights yourself, but you were an IT professional  
25 working for Thunder Studios; right?

1 A That's correct.

2 Q You told him that on the phone?

3 A Yes.

4 Q And he says here in the e-mail that we're looking at  
5 that we spoke to the complainant, Mr. Paul Kolesa, this  
6 morning. He is being copied on this e-mail.

7 The format of this document is a little bit  
8 unusual from what we're accustomed to, I think, in terms of  
9 e-mails, but were you copied on this e-mail, in fact?

10 A I believe -- yeah, I believe I was.

11 Q Do you recall receiving it at the time?

12 A I'm quite sure I either got it from Mr. Richards or  
13 from GoDaddy, yes.

14 Q You said that you first started working with  
15 Thunder Studios as a contractor for UTG in June of 2016;  
16 right?

17 A Correct.

18 Q And UTG is Mr. Price's company?

19 A That's correct.

20 Q And is that United Technologies Group?

21 A Correct.

22 Q Prior to June of 2016, had you had any involvement  
23 whatsoever with Thunder Studios?

24 A Yes. I did smaller contract work with them while I was  
25 working with UTG.

1 Q So help me understand what that means.

2 What changed in June of 2016, then?

3 A Well, specifically I performed a penetration test of  
4 their site; their physical infrastructure, their IT  
5 infrastructure, and their external infrastructure. After  
6 completing the test, I was brought on as a contractor so I  
7 could implement a remediation strategy.

8 Q And when was this -- what did you call it? A  
9 penetration test?

10 A Yes.

11 Q When was that?

12 A That happened in February or March of 2016, I believe.

13 Q And were you physically performing that work at  
14 Thunder Studios' office?

15 A The majority of it was performed remotely.

16 Q And in the course of that work starting in, I think you  
17 said, February of 2016 --

18 A Yes.

19 Q -- did you have any involvement with the  
20 Thunderstudios.com website?

21 A I -- it was within the scope of the penetration test.

22 Q Okay. Did you have any involvement with Thunder  
23 Studios' intellectual property?

24 A Not from an administrative standpoint.

25 Q Did you have any involvement with any of the

1 photographs that are -- that Mr. Wiener has showed you  
2 today?

3 A No.

4 Q So your responsibilities, which I think you said at the  
5 beginning, include now things like intellectual property and  
6 content security, that was only added later?

7 A Once I came on as a contractor, that was added.

8 Q In June of 2016?

9 A Correct.

10 Q If we could take a look for a moment back at  
11 Exhibit 23.

12 Just looking at the first page for a moment. I  
13 believe you testified earlier that the dates that are  
14 reflected here are the dates that the respective photographs  
15 first appeared on the Thunder Studios' website?

16 A Yeah.

17 Q How do you know that?

18 A I believe I was referencing the dates directly from  
19 WordPress at that point.

20 Q Can you explain what you mean by that?

21 A I was logged into the website. I was looking at the  
22 file archive, and I was checking their posting dates.

23 Q Now, it appears from looking at this exhibit that  
24 certainly on subsequent pages that a lot of the photographs  
25 bear dates that predate your involvement with

1    Thunder Studios; is that fair to say?

2    A    That's fair to say.

3    Q    And it's also fair to say that you didn't take the  
4    photographs; right?

5    A    Oh, no, I did not.

6    Q    And you didn't post them on Thunderstudios.com  
7    yourself; right?

8    A    No, that was not my job.

9    Q    Is it also fair to say that you don't actually know for  
10   certain when any of these photographs first appeared on  
11   Thunderstudios.com?

12   A    No. I have a very good idea of when they appeared on  
13   there because of the date stamps on the website.

14   Q    You mean in the WordPress account information that you  
15   were referencing a moment ago?

16   A    Yes. When you go into the content library, I can see  
17   dates.

18   Q    Can you also see whether any given photograph was  
19   posted on a prior iteration of the site, or it was posted  
20   previously and then reposted somewhere else?

21   A    No. But at that time, I believe I would have been  
22   looking at the first iteration of the site.

23   Q    But you can't be a hundred percent certain, can you?

24   A    I'm quite sure. I can't cite an exact date.

25   Q    You mentioned earlier a series of trainings and

1 certifications that you've received, frankly, a lot of which  
2 are unfamiliar to me as someone who does not work in your  
3 field, but do you have any formal training in web  
4 development?

5 A Oh, no. I'm not a front-end developer. I have  
6 extensive experience in back-end, like server  
7 infrastructure, the underpinnings of websites, the  
8 underpinnings of web servers.

9 Q And very briefly and for those of you who are not in  
10 your field, can you explain the difference between what you  
11 called front-end and back-end when it comes to web  
12 development?

13 A Front-end development is everything that you see when  
14 you go to access a website. Back-end are the functions that  
15 actually make that website work when you're connected to it.

16 Q And as part of your responsibilities at Thunder  
17 Studios, are you involved in back-end development of the  
18 company website?

19 A No, I'm not.

20 Q Not at all?

21 A No.

22 Q How long have you known Mr. Price?

23 A He's a friend of a friend. I believe I met him in  
24 early 2015.

25 Q And when did you start working with his company?

1 A Shortly thereafter.

2 Q Are you still in touch with him?

3 A Not very frequently.

4 Q At any point, did you become aware that Mr. Price had  
5 registered a series of websites in the name of the Kazal  
6 family, including, for example, Charifkazal.com,  
7 Adamkazal.com, Carlkazal.com?

8 A I was aware of every website that Matt had registered  
9 because I handled security updates on most of them.

10 Q What does that mean?

11 A Making sure that plug-ins and core operations of the  
12 website are up to date, making sure that SSL certificates  
13 are up to date. Minor maintenance.

14 Q So you were aware of the existence of the websites I  
15 just mentioned because Mr. Price gave you responsibility for  
16 the security items you just mentioned; right?

17 A Yeah.

18 Q And when did you become aware of the existence of those  
19 websites?

20 A I don't have an exact date on that. Out of all the  
21 websites that he had registered, I have to take care of the  
22 security on all of them. I can't quote an accurate date.

23 Q Would that have been in 2016?

24 A Yeah, probably.

25 Q Did you ever discuss with Mr. Price the content of

1 those websites?

2 A Honestly, the content of the websites was irrelevant to  
3 my job.

4 Q I understand that, but did you and he ever discuss it?

5 A Not really.

6 Q Not really. Or no?

7 A No.

8 Q Did you ever discuss with him anything about the Kazal  
9 family at all?

10 A I did independent research.

11 Q So you saw that there were these domains among the  
12 websites that Mr. Price had registered and you wanted to  
13 find out who these people were; right?

14 A I've heard the name before, and I've read up on some  
15 news articles.

16 Q So you had heard the name before these websites came  
17 into existence?

18 A Oh, no. Probably not.

19 Q So you heard the name from the existence of these  
20 websites?

21 A I guess that's fair to say, yes.

22 Q And what research did you do?

23 A I just looked for news articles online, just a little  
24 bit of reading.

25 Q Now, at the time, I guess around 2016, you were -- was

1 it the case that you were working on a day-to-day basis with  
2 Mr. Price?

3 A Around what time?

4 Q In 2016.

5 A In 2016. Not for all of 2016. Toward the middle to  
6 end of 2016, that became less and less because Mr. Price  
7 became ill, had a problem with a family member and ended up  
8 moving.

9 Q At the time you became a contractor for Thunder Studios  
10 in June of that year, did your work transition to being  
11 mostly on site at the studio?

12 A It was a mix of remote work and on-site work.

13 Q How would you break it down? Like 50-50?

14 A 50-50, yeah.

15 Q Did you ask Mr. Price why he had set up these websites  
16 in the name of the Kazal family?

17 A No.

18 Q Did you find it odd?

19 A Not really.

20 Q Why not?

21 A There's lots of odd websites out there. It didn't  
22 strike me as anything off-color.

23 Q Had Mr. Price, as you'd been aware of -- well, I guess  
24 you would know because you said you were in charge of  
25 security for all of his domains -- had he set up any

1 websites that you're aware of in the names of any other  
2 families that you were not familiar with?

3 A No. Mostly the others were company names.

4 Q Company names. So the only family that you can recall  
5 among those domains is the Kazal family; right?

6 A As far as I can recall, yeah.

7 Q Now, as part of your responsibility for security  
8 related to these websites, you would correspond from time to  
9 time with the server company that hosts the site; right?

10 A Yeah.

11 Q Including companies like GoDaddy, DreamHost, things  
12 like that?

13 A I believe most of the sites were on a DreamHost  
14 account.

15 Q Are you talking about the Kazal sites or in general?

16 A Most of the UTG site, they were hosted on DreamHost.

17 Q And that would be because that's where Mr. Price  
18 preferred to have them hosted; right?

19 A I believe so, yeah.

20 Q And it's true, isn't it, that you corresponded with  
21 DreamHost directly yourself with respect to a technical  
22 issue related to the Adamkazal.com website; right?

23 A Yeah.

24 Q Now, in the course of your work, starting as a  
25 contractor in June of 2016, until I guess you said around

1 November, you became an employee of Thunder Studios?

2 A That's accurate, yeah.

3 Q During that time, I guess about four or five months,  
4 did you have occasion to interact with and speak with  
5 Mr. David, Mr. Rodric David?

6 A Not frequently, but, yes.

7 Q And you would speak to him about things like technical  
8 issues --

9 A Just high level about my work around the studio.

10 Q And were those interactions mostly you approaching him  
11 with some discussion about your work, or would he come to  
12 you and ask you some questions about what you were doing?

13 A It could have been a mix. I didn't report directly to  
14 him, so normally it would either be a passing conversation  
15 or me speaking to him.

16 Q Did you ever discuss the existence of these five  
17 websites, the Kazal family websites, that Mr. Price  
18 registered with Mr. David himself?

19 A No.

20 Q Never?

21 A No.

22 Q So you don't know one way or the other, do you, whether  
23 Mr. David was aware of the existence of those websites in  
24 2016?

25 A I couldn't say for sure.

1 Q Now, in 2016, you did some independent research and you  
2 learned that the Kazal family had some business dispute with  
3 Mr. David; right?

4 A Yes.

5 Q And you learned that from your own Google research;  
6 right?

7 A Yes.

8 Q So to be clear, it's your testimony that you and  
9 Mr. Price were both working for Thunder Studios and were  
10 both involved with the Kazal family websites, but you never  
11 discussed that fact with Mr. David?

12 A No, didn't have to.

13 Q You testified a few minutes ago about your observation  
14 of the protestors who appeared outside Thunder Studios in  
15 October of 2016?

16 A Uh-huh.

17 THE COURT: Is that "yes"?

18 BY MR. TAYLOR:

19 Q You have to answer "yes" or "no," so the reporter can  
20 get what you're saying.

21 When you passed the protestors as you entered the  
22 parking lot, you were in your vehicle; right?

23 A Correct.

24 Q I think you said they were yelling -- you could hear  
25 them because there were a number of them, and they were

1 yelling; right?

2 A It was muffled. My windows were up, but, yes, there  
3 were a number of them, and they were yelling.

4 Q Now, did you have any interaction with them, other than  
5 what you just described?

6 A No, I didn't speak to them.

7 Q So you parked and got out of your car, and then you  
8 went into the building?

9 A Yes.

10 Q So it's fair to say that you had no fear for your  
11 personal safety from those protestors out on the sidewalk;  
12 right?

13 A I wasn't fearful, but I found it extremely strange. I  
14 thought that it could possibly have an impact on business;  
15 ergo, have an impact on my life.

16 Q Now, the protestors that were outside the gates that  
17 morning, they didn't try to block you from getting into the  
18 parking lot; right?

19 A I was coming in kind of quick. They moved.

20 To my understanding, they did block a delivery  
21 from coming in, though.

22 MR. TAYLOR: Nothing further right now,  
23 Your Honor. Thank you.

24 THE COURT: All right. Any further examination,  
25 Mr. Wiener?

1 MR. WIENER: No redirect, Your Honor.

2 THE COURT: All right. May this witness be  
3 excused?

4 MR. WIENER: Yes.

5 THE COURT: All right. Thank you, sir. You may  
6 step down.

7 Ladies and gentlemen, why don't we take our  
8 afternoon recess.

9 Let's take 15 minutes if we could.

10 Please do not form or express any opinion about  
11 the case until the matter is finally submitted to you.

12 Don't talk with anyone about the case, don't allow  
13 anyone to talk to you about the case, and please do not  
14 conduct any research of any kind on any subject matter  
15 connected with this case.

16 We'll see you at 3:45. We'll go for one more  
17 hour, and then we'll wrap up for the day.

18 Thank you.

19 (Jury out.)

20 THE COURT: All right. Counsel, what's next after  
21 the break?

22 MR. WIENER: We have two depositions --

23 THE COURT: I'm sorry. Are you saying something?

24 MR. WIENER: You got me. I got six hours. The  
25 parties have two deposition transcripts to read into the

1 record which should take approximately the remainder of  
2 today.

3 THE COURT: Have you both agreed as to what you're  
4 going to read into the record?

5 MR. WIENER: We've agreed as to sections, not as  
6 to who will read and who will answer. So I was going to  
7 confer with Mr. Taylor about that.

8 THE COURT: As it relates to the first part of my  
9 question, have you agreed, Mr. Taylor, as to what is going  
10 to be read into the record?

11 MR. TAYLOR: Oh, yes, we have, Your Honor. We've  
12 marked the transcript with different colors so it's clear  
13 who's marked what, and I don't think there are any  
14 objections.

15 MR. WIENER: No objections.

16 MR. TAYLOR: I think we have to figure out the  
17 dynamics of how it will actually be done, but I think that  
18 will be simple enough.

19 THE COURT: All right. So you've got 15 minutes  
20 to figure that out. Then, we'll come back at 3:45, and you  
21 can read it however you all decide to do it.

22 MR. TAYLOR: May we stand and just read it at the  
23 lectern?

24 THE COURT: Yes.

25 (Recess taken at 3:34 p.m.;

1                   proceedings resumed at 3:54 p.m.)

2                   THE COURT: All right. Mr. Wiener, you want to  
3 call your next witness.

4                   MR. WIENER: Yes, Your Honor. The next witness  
5 will be a reading from the teleconference deposition of  
6 Adam Kazal of October 25th, 2018.

7                   THE COURT: All right. You may step to the  
8 lectern.

9                   Ladies and gentlemen, you are about to hear the  
10 reading of deposition testimony.

11                  Deposition testimony is the same as trial  
12 testimony. The witnesses are put under oath, and they are  
13 also cross-examined as well.

14                  So you're going to hear deposition transcript  
15 testimony that's been designated by both sides. You should  
16 assume, A, that would be the testimony at trial if they  
17 testified here in front of you and you are not to draw any  
18 negative by the fact that the witness is not here live and  
19 in person.

20                  With that, Mr. Wiener, you may proceed.

21                  MR. GEBELIN: Your Honor, may I approach? I'm  
22 going to be reading the witness's portions.

23                  THE COURT: Okay. You may.

24                  MR. WIENER: The first excerpt, Your Honor, is  
25 page 18 -- page 14, lines 18 through 20.

1                   THE COURT: All right.

2                   MR. WIENER: (Reading.)

3                   "Q        Have you ever been to California?

4                   "A        Never."

5                   MR. WIENER: Are you familiar with your -- strike  
6 that.

7                   The next excerpt is page 14, line 24, page 15,  
8 line 11. (Reading.)

9                   "Q        Could you tell me what you understand about  
10                  your family's prior business dealings with Mr. David?

11                  "A        No. I don't have indefinite detail, but I  
12                  have headlines of what's going on. I know back -- the  
13                  guy was involved with them in some kind of business,  
14                  and he ended up being the biggest thief, and he  
15                  troubled them and defamed the whole family for the last  
16                  seven, eight years.

17                  "Q        Have you ever met Mr. David in person?

18                  "A        Never."

19                  MR. WIENER: And, Your Honor, lines 10 and 11 are  
20                  a question, but the answer is not part of the designated  
21                  testimony, so I'm going to skip the question.

22                  The next excerpt is page 16, lines 3 to 5.  
23 (Reading.)

24                  "Q        Are you familiar with the website  
25                  Kazalfamilystory.com?

1                   "A        Yes, I am familiar of it."

2                   MR. WIENER: Next excerpt is page 16, lines 18 to  
3 22. (Reading.)

4                   "Q        Do you know when the website was created?

5                   "A        No idea.

6                   "Q        Do you know who the owner of the website is?

7                   "A        I have no idea to be honest with you."

8                   MR. WIENER: The next excerpt is page 16, line 25  
9 to page 17, line 8. (Reading.)

10                  "Q        Have you had any involvement with any of the  
11 materials on the website?

12                  "A        No.

13                  "Q        Do you know -- have you ever heard of a  
14 person named Joe Dabab?

15                  "A        What's the name?

16                  "Q        Have you ever heard of Joe Dabab, D-a-b-a-b?

17                  "A        No, not at all."

18                  MR. WIENER: The next excerpt is page 17, line 22,  
19 to page 18, line 1. (Reading.)

20                  "Q        So if I showed the jury an affidavit that has  
21 your signature on it that says the website -- Charif  
22 controls the content of that website, then, you would  
23 admit that's a true statement?

24                  "A        I will say yes."

25                  MR. WIENER: Next excerpt is page 18, lines 5 to

1 9. (Reading.)

2 "Q Do you know which persons put the content of  
3 the website up?

4 "A Like I said earlier, I have nothing to do  
5 with the website, so I wouldn't have a clue. You can  
6 always ask Charif for that."

7 MR. WIENER: Next excerpt is page 18, lines 10 to

8 14. (Reading.)

9 "Q Do you know if on December 6th, 2016, the  
10 federal court of Australia issued an order that  
11 restrains you from making any statements about Rodric  
12 David?

13 "A They did, and I commit what they said.

14 "Q Can you repeat the last thing you said?

15 "A I said yes, and I commit --"

16 THE COURT: I'm sorry. You just said the excerpt  
17 was lines 10 through 14?

18 MR. WIENER: I read over. So it should be: "They  
19 did, and I commit what they said." And anything after that  
20 should be stricken.

21 THE COURT: All right.

22 MR. WIENER: The next excerpt is page 18, line 20  
23 to line 23. (Reading.)

24 "Q Do you know if you were ever found in  
25 contempt of court by the federal court of Australia?

1                   "A        Yes."

2                   MR. WIENER: Next excerpt is page 20, line 21 to  
3 page 22, line 6. (Reading.)

4                   "Q        What was the reason you were found in  
5 contempt of court?

6                   "A        Oh, the reason. There's something --  
7 something still on the van, like the website. One of  
8 them was an e-mail I sent to -- there's couple things,  
9 but I don't recall the whole thing at the moment. Most  
10 of them fabricate things and then look, he's contempt  
11 of order. But it was a setup.

12                  "Q        All right. How much time did you spend in  
13 jail?

14                  "A        Sixteen months.

15                  "Q        What jail were you incarcerated at?"

16                  THE COURT: Counsel, I thought you said you were  
17 going to end at line 6?

18                  MR. WIENER: It's page -- line 6 of page 22,  
19 Your Honor.

20                  THE COURT: I'm sorry. My mistake.

21                  MR. WIENER: (Reading.)

22                  "Q        What jail were you incarcerated at?

23                  "A        What's that? Sorry, sir.

24                  "Q        What jail were you in?

25                  "A        I was what?

1                   "Q     What jail were you incarcerated at?

2                   "A     At the minimum.

3                   "Q     Say it again?

4                   "A     They call them, like in a jail, what you call  
5                   it in Australia. It is a minimum jail. Not like a  
6                   high-risk prisoner or anything, just in jail for  
7                   contempt of order. Very civil. End of a civil matter.

8                   "Q     Did you have a Twitter account, Mr. Kazal?

9                   "A     Yes.

10                  "Q     Did you have any YouTube accounts?

11                  "A     No.

12                  "Q     Did you have any Pinterest accounts?

13                  "A     No.

14                  "Q     No?

15                  "A     No.

16                  "Q     All right. Did you make any postings on  
17                  Twitter about Rodric David?

18                  "A     Say that again.

19                  "Q     Did you make any postings on Twitter  
20                  regarding Rodric David?

21                  "A     Not me."

22                  MR. WIENER: Next excerpt is page 22, lines 5 to  
23 17. (Reading.)

24                  "Q     You did not?

25                  "A     No, I did not in person.

1                   "Q     All right. Did anyone else have access to  
2     your Twitter account?

3                   "A     There's a friend of mine named Georges  
4     Elaiss. He's normally helping me out. I'm not very  
5     good when it comes to computers and all that.

6                   "Q     The person that used your Twitter account was  
7     George White?

8                   "A     Georges Elaiss."

9                   MR. WIENER: All right. The next excerpt is  
10   page 23, line 7, to line 14. (Reading.)

11                  "Q     What activities did you do on your Twitter  
12   account?

13                  "A     Nothing.

14                  "Q     Why did you give George Elaiss access to your  
15   Twitter account?

16                  "A     Because he know how to do it better than me.  
17     I don't understand what it is when it comes to latest  
18     technology."

19                  MR. WIENER: Next excerpt is page 24, line 8, to  
20   page 25, line 2.

21                  "Q     Who told Georges Elaiss to make those  
22   postings?

23                  "A     Before those, I did.

24                  "Q     Why did you tell him to make postings about  
25   Rodric David?

1                   "A     Because Rodric David was defaming my name and  
2                   my family's name six months before I was defaming him.  
3                   I was doing it to defend myself and bring the truth  
4                   out.

5                   "Imagine when you have kids at home and you are  
6                   coming home and your son, 12 years old and 13 years old,  
7                   asking me why my friends keep saying you on the website are  
8                   saying this or that. I have no answers because I don't know  
9                   where they come from.

10                  "When I find out where they come from, I have  
11                  nothing to do with these guys. I have absolutely nothing to  
12                  do with them. So I have to do something to defend myself  
13                  and bring the truth out and make him stop defaming me.  
14                  That's what it is all about."

15                  MR. WIENER: Next excerpt is page 25, line 24 to  
16                  page 26, line 13. (Reading.)

17                  "Q     Mr. Kazal, did you ever make threats of  
18                  violence against Rodric David's father?

19                  "A     Not at all.

20                  "Q     Was a restraining order issued against you in  
21                  2013?

22                  "A     Actually this, you just mentioned now,  
23                  restraining order. Jamal himself -- you call him  
24                  John David -- he actually said -- the police ask him --  
25                  it was in the script. The police, did you ever feel

1                   afraid by Mr. Kazal? He said, no, not at all.

2                   "But the restraining order was issued because at  
3 the time I came to the police office and asked to speak to  
4 him, just, you know, get the record straight. Because his  
5 son used a journalist, Linton Besser."

6                   MR. WIENER: Next excerpt is page 29, line 16 to  
7 page 32, line 9. (Reading.)

8                   "Q       Did you publish posters regarding Rodric  
9 David in Australia in October 2016?

10                  "A       Yes, I did.

11                  "Q       Do you recall what the posters said?

12                  "A       I can't remember, but I believe they were  
13 discreet and some were in the streets of Australia.

14                  "Q       Did the poster say that, quote: Expose the  
15 corporate thieves. Rodric David, David Singh robbed  
16 their business partners of \$180 million. Don't be  
17 their next victim. Read the whole story,  
18 [www.kazalfamilystory.com](http://www.kazalfamilystory.com). Care of Adam Kazal?

19                  "A       Yes, it is me.

20                  "Q       Who created the text?

21                  "A       I did.

22                  "Q       Why did you reference Kazalfamilystory.com?

23                  "A       Because, as I said earlier, he published me.  
24 He put a website up in my name. And for me, looking at  
25 the family website, I view the whole story is there.

1       So I don't have to say more. So I need to point  
2       people. Instead of him defaming me. It is not me, it  
3       is him.

4            "Q       Did you also hire a white van to be  
5       circulated in Sydney in October in 2016?

6            "A       I did not.

7            "Q       And did they have a sign that says: Expose  
8       the corporate thieves? Robster Rodric David, Robster  
9       David Singh robbed their business partners of  
10       180 million. Don't be their next victim. Read the  
11       full story at [www.kazalfamilystory.com](http://www.kazalfamilystory.com). Rodric David,  
12       con artist, and David Singh, con artist, end quote.

13           "A       Yes, I did that.

14           "Q       Are you familiar with a company named Street  
15       Promotions Australia PTY Limited?

16           "A       Yes. I asked them to help me on that.

17           "Q       Who did you work with at Street Promotions  
18       Australia PTY Limited?

19           "A       PTY -- the person is Israel.

20           "Q       Is the person's name Israel Lacey?

21           "A       Yes, that's the one.

22           "Q       All right. Did they create the posters for  
23       you?

24           "A       Yes, they did.

25           "Q       Did they also create flyers for you?

1                   "A     Yes, they did.

2                   "Q     Were they responsible for distributing the  
3                   flyers in Sydney in November of 2016?

4                   "A     Yes, they are.

5                   "Q     How many flyers were distributed?

6                   "A     I'll be honest with you, at this time I don't  
7                   have the proper numbers, but I think it was enough for  
8                   him to be exposed.

9                   "Q     Would it be 35,000 flyers that they prepared?

10                  "A     It could be.

11                  "Q     Right. Did you also hire Street Promotions  
12                  Australia PTY Limited to prepare 2,000 posters of  
13                  Rodric David?

14                  "A     Yes, I did."

15                  THE COURT: Counsel, I'm sorry. Did you -- did  
16                  you skip over a response?

17                  MR. WIENER: There's a response, "I don't know at  
18                  this moment" that wasn't read where I said "right."

19                  THE COURT: So can you start back at --

20                  MR. WIENER: Sure, I'll back it up.

21                  Reading from page 31, line 23. (Reading.)

22                  "Q     Would it be 35,000 flyers that they prepared?

23                  "A     It could be.

24                  "Q     Right.

25                  "A     I don't know at the moment.

1                   "Q     Did you also hire Street Promotions Australia  
2                   PTY Limited to prepare 2,000 posters of Rodric David?

3                   "A     Yes, I did. Like I said in the beginning, I  
4                   just want him to give me my identity back. I just want  
5                   him to stop, be silent, and give me my identity back.  
6                   That's all I was doing."

7                   MR. WIENER: Next excerpt is page 32, line 25 to  
8                   page 33, line 9. (Reading.)

9                   "Q     Did you decide at some point in 2016 to  
10                   escalate your protest against Mr. David?

11                   "A     Yes, I did.

12                   "Q     Why did you decide to do that?

13                   "A     Because he refused to stop defaming me and  
14                   give me my identity back. I asked very nice.

15                   "Q     All right. Did you also make a demand that  
16                   Mr. David pay you \$666,666.66?

17                   "A     Honestly, I don't remember that, but  
18                   something like this, yes, I did that. Why don't you  
19                   read the e-mail first. Why don't you go to the e-mails  
20                   and go to the point."

21                   MR. WIENER: Next excerpt is page 34, line 17 to  
22                   page 35, lines 17 -- sorry. Next excerpt is page 34,  
23                   line 17 to page 35, line 17. (Reading.)

24                   "Q     Who paid for the activities in Australia?

25                   "A     Sorry. What's that again?

1                   "Q    Who paid for the posterizing campaign?

2                   "A    I did.

3                   "Q    Where did you get the money?

4                   "A    I won the money in the horse race. I won  
5                   some money in a horse race, and I won the money on it,  
6                   and I think it was money to be used to clean my name.  
7                   So that's where the money came from.

8                   "Q    That's the source of funds that you used for  
9                   the California activities?

10                  "A    What's that again?

11                  "Q    That's the same source of funds that you used  
12                  for the activities in Sydney and also paid for  
13                  California?

14                  "A    I can guess. But it's been a long time now.

15                  "Q    How much did you win in this horse race?

16                  "A    I can't remember. But it was enough to cover  
17                  the whole thing.

18                  "Q    Did you win it all in one race?

19                  "A    Honestly, I cannot remember, but, yeah, I  
20                  think so.

21                  "Q    Where did the horse race take place?

22                  "A    It's been a long time. Like I said, I can't  
23                  remember."

24                  MR. WIENER: Page 36, line 3 to page 36, line 14.

25                  (Reading.)

1                   "Q     Do you recall what the horse track was?  
2                   "A     No, I don't remember. Again, it is  
3                   irrelevant. Get to the point of what you really want  
4                   to get to, what you'd really like to achieve.

5                   "Q     What I'm really trying to find out of this  
6                   questioning is who actually paid for this. I simply  
7                   don't think it's plausible that you won a bunch of  
8                   money at a horse race. I'm trying to find out the  
9                   details about your testimony. I'm trying to find out  
10                  if it is true.

11                  "A     It is true.

12                  "Q     I haven't heard anything about this horse  
13                  race.

14                  "A     Listen, it is true and real."

15                  THE COURT: Counsel, I'm sorry. I thought you  
16                  said to line 14.

17                  MR. WIENER: Yeah, I apologize. It should have  
18                  ended at "It is true." Strike the question, "I haven't  
19                  heard anything about this horse race."

20                  The next excerpt is page 36, line 3, to page 36 --

21                  THE COURT: You just read that.

22                  MR. WIENER: Yeah, sorry.

23                  Next, excerpt is page 37, line 3 to line 6.

24                  (Reading.)

25                  "Q     Is it your testimony that you're the only

1           person who paid for the protest activities in Sydney  
2           and California?

3           "A       Yes, it is."

4           MR. WIENER: Next excerpt is page 40, lines 18 to  
5 23. (Reading.)

6           "Q       Do you know if Rodric David has children?

7           "A       No.

8           "Q       Did you make any efforts to find out if  
9 Rodric David has children?

10          "A       No."

11          MR. WIENER: Last excerpt is page 41, line 24 to  
12 page 42, line 10. (Reading.)

13          "Q       How much did you pay for Mark Woodward?

14          "A       Honestly, I can't remember now.

15          "Q       How did you select Mark Woodward?

16          "A       E-mail.

17          "Q       How many hours of video surveillance were  
18 conducted? Do you know?

19          "A       I don't know. I was just to find out who was  
20 behind the website. There's no pictures, no video, no  
21 nothing.

22          "Q       The source of funds used to pay for the  
23 surveillance were from a horse race?

24          "A       I think so, yes."

25          MR. WIENER: End of testimony.

1                   THE COURT: All right. Thank you, sir. You may  
2 step down.

3                   All right. You have some deposition transcripts  
4 that you wish to read at this time, Mr. Taylor?

5                   MR. TAYLOR: Yes, I'm going to read from the  
6 deposition of Tony Kazal.

7                   THE COURT: All right.

8                   MR. TAYLOR: May I approach the witness box?

9                   THE COURT: Yes, please.

10                  All right. So, Ms. Bani-Esraili, you may proceed.

11                  MS. BANI-ESRAILI: The first excerpt is page 6/25,  
12 to page 7, line 21. (Reading.)

13                  "Q     All right. Can you state your full name for  
14 the record.

15                  "A     Tarek Kazal. Also known as Tony Kazal.

16                  "Q     Can you state your residential address?

17                  "A     Yes. Resident of United Arab Emirates,  
18 Dubai. I live in JLT. And building name, Jamera Lake  
19 Towers, Number 28, in Apartment 28080, Box 50.

20                  "Q     Could you state your occupation?

21                  "A     I am a company director. I have a company  
22 based in Dubai.

23                  "Q     What is the name of the company?

24                  "A     AWT Dubai.

25                  "Q     AWT?

1                   "A      Dubai.

2                   "Q      What is your function as a company director?

3                   "A      Consultancy.

4                   "Q      What kind of consulting do you do?

5                   "A      I work with a company in Africa.

6                   "Q      Who? What's the nature of the consulting  
7                    services that you provide?

8                   "A      Business development."

9                   MS. BANI-ESRAILI: Next excerpt is page 10, line 3  
10 to line 10. (Reading.)

11                  "Q      All right. Do you know a person named  
12                  Rodric David?

13                  "A      Yes.

14                  "Q      How do you know Mr. David?

15                  "A      Sorry?

16                  "Q      How do you know Rodric David?

17                  "A      Yes, Rodric, yes, of course, I know him. He  
18                  was a business partner."

19                  MS. BANI-ESRAILI: Next excerpt is page 11,  
20 line 11 to line 14. (Reading.)

21                  "Q      Did you ever cause a criminal complaint to be  
22                  made against David in United Arab Emirates?

23                  "A      It was a few places. Again, one for neglect,  
24                  one for fraud, visa."

25                  MS. BANI-ESRAILI: Next excerpt is page 14,

1 line 21 to page 15, line 16. (Reading.)

2 "Q Are you familiar with Kazalfamilystory.com  
3 website?

4 "A Yeah.

5 "Q What do you know about the website?

6 "A Well, I think this website, my brother Charif  
7 and his side of the story.

8 "Q Do you know when the website was created?

9 "A No, actually. Years back, you know.

10 "Q Do you know who the owner of the website is?

11 "A I don't know, man. You can ask him. He's  
12 the one in charge.

13 "Q What do you mean by Charif is the one in  
14 charge?

15 "A He's the one who write it. He wrote it.

16 "A Do you know Jean Ghalo?

17 "A No.

18 "Q Do you know a person named Joe Dabab?

19 "A Who?

20 "Q Joe Dabab?

21 "A I met him."

22 MS. BANI-ESRAILI: Next excerpt is page 16,  
23 line 10 to line 25. This is Mr. Wiener speaking.  
24 (Reading.)

25 "Q Did you author any of the content on

1           Kazalfamilystory.com?

2           "A     Maybe one of the e-mails -- I'm sorry.  Maybe  
3     one of the e-mails, my e-mails, but not me.

4           "Q     Did you write any of the e-mails on the  
5     website?

6           "A     Sorry?

7           "Q     Did you write any of the e-mails on  
8     Kazalfamilystory.com?

9           "A     My e-mails only, sir, which I was saying, you  
10    should ask my brother Charif.

11          "Q     Who did you send these e-mails to besides  
12    Rodric David and Charif?

13          "A     People in Thunder Studios, to my memory,  
14    to -- I don't know.  I can't remember now, but I would  
15    say a few people, Thunder Studios people."

16          MS. BANI-ESRAILI:  Next excerpt is page 18, line 2  
17  to line 9.  (Reading.)

18          "Q     Did you ever see any stories of Rodric David  
19  on Kazalfamilystory.com?

20          "A     I'm sorry.  Oh, yeah.

21          "Q     Do you know where those photos came from?

22          "A     No, I don't know.

23          "Q     Did you ever have any involvement in choosing  
24  the photos on the website?

25          "A     No."

1 MS. BANI-ESRAILI: Next excerpt is page 19, line 9  
2 through 19. (Reading.)

3 "Q The e-mails that you sent, did you write them  
4 or did someone else do them for you?

5 "A I write them and sometimes I have an  
6 assistant, you know.

7 "Q Who assisted you with writing the e-mails?

8 "A Various.

9 "Q I'm sorry. Can you say that again?

10 "A That's me. Me. I'm busy. I'm traveling."

11 THE COURT: I'm sorry. I need to stop you there.  
12 After the question, "Who assisted you with writing the  
13 e-mails," what was the answer?

14 THE WITNESS: There was an errata that's at the  
15 back, so that should be "various."

16 THE COURT: All right. Go ahead.

17 MS. BANI-ESRAILI: (Reading.)

18 "Q I'm sorry. Can you say that again?

19 "A That's me. Me. I am busy. I am traveling.

20 "Q So what is the name of the person that helps  
21 you write the e-mails?

22 "A Me. I told you me."

23 MS. BANI-ESRAILI: Next excerpt is page 21,  
24 line 10 through line 13. (Reading.)

25 "Q Do you know how the photos were obtained?

1                   "A     Not at all. To make it easier and save time,  
2                   I have nothing to do with the website."

3                   MS. BANI-ESRAILI: Next excerpt is page 21,  
4 line 19, through line 21.

5                   "Q     Mr. Kazal, do you agree that your e-mails are  
6                   posted on Kazalfamilystory.com?

7                   "A     Yes."

8                   MS. BANI-ESRAILI: Next excerpt is page 22, lines  
9 3 through 5. (Reading.)

10                  "Q     Did you make any effort to determine if the  
11                  photos on the website were copyrighted?

12                  "A     No."

13                  MS. BANI-ESRAILI: Next excerpt is page 22,  
14 lines 8 through 9. (Reading.)

15                  "Q     Do you know who paid for the website?

16                  "A     No. I am not involved in the website."

17                  MS. BANI-ESRAILI: Next excerpt is page 22,  
18 lines 19 through 21. (Reading.)

19                  "Q     Did you make posts about Rodric David on  
20                  Twitter?

21                  "A     Yes, sometimes."

22                  MS. BANI-ESRAILI: Next excerpt is page 24,  
23 lines 5 through 14. (Reading.)

24                  "Q     Do you have any knowledge of surveillance  
25                  that was conducted on Rodric David in Australia?

1                   "A     Australia -- when he robbed me, when he  
2     robbed my shares, I did engage a professional -- not  
3     surveillance, investigation. I don't know  
4     surveillance. I did investigation. I engaged an  
5     investigation company to give me information on the guy  
6     who robbed me. I think Government do that, everybody  
7     do that. It is professional. It is very lawful to do  
8     it."

9                   MS. BANI-ESRAILI: Next excerpt is page 27,  
10    lines 5 through 7. (Reading.)

11                  "Q     Did you find out how Adam paid for the pole  
12    and poster campaign?

13                  "A     I don't know."

14                  MS. BANI-ESRAILI: Next excerpt is page 28,  
15    lines 3 through 11.

16                  "Q     Do you know of any e-mails that said Rodric  
17    David was a despicable thief?

18                  "A     He is a thief.

19                  "Q     Did any of your e-mails say that?

20                  "A     He's a thief. Whatever name in the  
21    dictionary that can make accountable to him. The  
22    amount of documents he fraud and the lies he put on,  
23    his actions is saying something not happened. His  
24    actions, and he's fraudulent."

25                  MS. BANI-ESRAILI: Next excerpt is page 28,

1 lines 12 through 19. (Reading.)

2 "Q Did you have any knowledge about any  
3 surveillance that was done on Rodric David that was  
4 done in California in 2016?

5 "A Not at all.

6 "Q Are you aware that anything was sent to you  
7 by a private investigator named Mark Woodward in 2016?

8 "A Not at all."

9 MS. BANI-ESRAILI: That is the end of the  
10 testimony.

11 THE COURT: All right. Thank you. You can step  
12 down.

13 Is there any further deposition testimony that  
14 needs to be read into the record?

15 MR. WIENER: No, Your Honor. We'd like to read  
16 into -- one single interrogatory response.

17 THE COURT: All right. You may proceed.

18 MR. WIENER: It's Exhibit 37, Tony Kazal's First  
19 Supplemental Responses and Objection to Rodric David's First  
20 Set of Interrogatories which is verified under penalty of  
21 perjury by Tony Kazal on May 2nd, 2018, in Sydney,  
22 Australia.

23 Your Honor, I'd like to move this interrogatory  
24 response into evidence.

25 THE COURT: All right. Any objection? The entire

1 set of interrogatories?

2 MR. WIENER: Just Interrogatory Number 3,

3 Your Honor, and the verification page.

4 So it would be pages 4 and 7.

5 THE COURT: And will there be a redacted portion  
6 that gets introduced in evidence so just have the response  
7 to Interrogatory Number 3? Or how do the parties propose to  
8 deal with this when there's other interrogatory responses on  
9 that page, if I'm looking at the right page.

10 MR. WIENER: We will provide a redacted copy for  
11 the jury.

12 THE COURT: Any objection to the introduction of  
13 simply the response to Interrogatory Number 3 contained in  
14 Exhibit 37?

15 MR. TAYLOR: No objection, Your Honor.

16 THE COURT: So that exhibit as redacted will be  
17 admitted.

18 Do you want to read that response at this time for  
19 the record.

20 MR. WIENER: I'll read both the interrogatory and  
21 the response. Interrogatory Number 3 states: Identify all  
22 communications you made regarding plaintiffs between  
23 January 1st, 2013, and the present.

24 The response to Interrogatory Number 3 states: I  
25 refer you to the produced post from

1   www.kazalfamilystory.com, supplied by Joe Dabab which  
2   represents all content from --

3                   THE COURT: Counsel, slow down.

4                   MR. WIENER: Sure. I'll begin again.

5                   I refer you to the produced post from

6   www.kazalfamilystory.com supplied by Joe Dabab, which  
7   represents all content from the now closed website. The  
8   referred content was publication of e-mails sent to the  
9   plaintiff and his associates at Thunder Studios by  
10   Charif Kazal and Tony Kazal.

11                  I used to send Mr. Joe Dabab a copy of what was  
12   sent to Rodric David or David Singh. Once uploaded to the  
13   website, I would delete the e-mails and Mr. Joe Dabab only  
14   preserved the website content.

15                  End of interrogatory response.

16                  THE COURT: All right. So that testimony is now  
17   in the record.

18                  Does the defense wish to introduce any  
19   interrogatory responses at this time?

20                  MR. TAYLOR: No, we do not, Your Honor.

21                  THE COURT: Anything further, Mr. Wiener?

22                  MR. WIENER: No, Your Honor.

23                  THE COURT: So are we done with the testimony for  
24   today?

25                  MR. WIENER: We are, Your Honor.

1                   THE COURT: All right. Let me have the parties  
2 approach sidebar, please.

3                   (Sidebar conference, reported.)

4                   THE COURT: I just want to make sure there's no  
5 further depo testimony, no further interrogatories. There's  
6 only a witness for the plaintiff left, Mr. Woodward, on  
7 Monday. I'm sorry. Do you have another witness that you  
8 wish to call?

9                   MR. WIENER: Michael Hammond on Monday.

10                  THE COURT: Michael Hammond on Monday. Okay.

11                  And then you have Woodward on Monday and  
12 Mr. Kazal?

13                  All right. So I'm going to excuse the jurors for  
14 today, and we'll talk about how we're going to proceed  
15 afterwards.

16                  (End of sidebar conference.)

17                  THE COURT: All right. Ladies and gentlemen of  
18 the jury, we have concluded our testimony for today so  
19 you're going to get to leave a little bit earlier, so  
20 hopefully -- it's stopped raining so hopefully the traffic  
21 won't be too bad. We're going to resume back on Monday at  
22 9:00 a.m.

23                  I am cautiously -- and this is cautiously  
24 optimistic that we will conclude all the testimony on Monday  
25 with an eye toward having closing argument on Monday so you

1 can begin your deliberations. If not Monday, certainly  
2 Tuesday morning, but I'm going to push very hard to try to  
3 get that done by Monday.

4 As I've said to you repeatedly, please do not form  
5 or express any opinion about this case until the matter is  
6 finally submitted to you.

7 Please don't talk with anyone about this case,  
8 don't allow anyone to talk to you about the case and please  
9 do not conduct any research of any kind on any subject  
10 matter connected with this case.

11 I emphasize those words because I know there's a  
12 long recess, and I don't want temptation to get the best of  
13 you. No research of this case at all on the Internet. At  
14 all. Please, please, please. If it happens, that would  
15 cause a mistrial, and we'd have to do this all over again.  
16 And if it happens, I will make you all come back and do it  
17 again. I'm just kidding on that part, but...

18 Please do not conduct any research of any kind  
19 connected with this matter.

20 I will see you next Monday. Enjoy your weekend.  
21 Thank you.

22 (Jury out.)

23 THE COURT: All right. A couple of things.  
24 Plaintiff, you have three hours, 45 minutes and 20 seconds.  
25 Defense, you have three hours, 46 minutes and 31 seconds.

1           Having said that, I'm going to urge you, urge you  
2 all to wrap this up on Monday. We are taking far too much  
3 time, in my opinion, on cumulative testimony. So keep that  
4 in mind, number one.

5           Number two, just informing the defense, I'm going  
6 to be as equally harsh on you as I was with the plaintiff.  
7 If you get witnesses up here that engage in narrative  
8 testimony, I'm going to shut it down immediately. I was far  
9 too kind with the plaintiff. I'm not going to tolerate with  
10 the defense in the interest of time because I want this case  
11 to be done. You have time now. You have two, three days to  
12 prep your witnesses.

13           You have been warned. I will interrupt in the  
14 middle of a response if the witness is engaged in narrative  
15 testimony. Question/answer. That's your job.

16           I'm not blaming the witnesses, I'm blaming the  
17 lawyers because you all know or should know what's expected  
18 in a courtroom, particularly a federal courtroom.  
19 Question/answer/question/answer. That's your  
20 responsibility, and I expect you to abide by those rules.

21           Do you have any question about that, Mr. Taylor or  
22 Ms. Bani-Esraili?

23           MR. TAYLOR: No questions, Your Honor.  
24 Understood.

25           THE COURT: On Monday, just so I'm clear,

1 Mr. Hammond is going to be called first?

2 MR. WIENER: Yes, Your Honor.

3 THE COURT: And then after Mr. Hammond, the  
4 plaintiff will rest presumably?

5 MR. WIENER: Yes, Your Honor.

6 THE COURT: Then, the defense will begin their  
7 case. You're going to call Mr. Woodward.

8 Who else did you say?

9 MR. TAYLOR: Mr. Kazal.

10 THE COURT: Mr. Kazal. And then I thought there  
11 was one other witness.

12 MR. TAYLOR: Yes, Mr. Parlato.

13 THE COURT: I'm sorry. Can you spell that?

14 MR. TAYLOR: Sure. Last name P-a-r-l-a-t-o.

15 THE COURT: And over the weekend, I would ask that  
16 you all revisit looking at the verdict form. If you cannot  
17 come up with a resolution, I will come up with one, but it  
18 seems to me you're asking this jury a lot based on the  
19 verdict form that you've submitted. But if that's what you  
20 want to do, then that's what will get submitted.

21 I am inclined, just so the parties know, to break  
22 this up into two phases so that there's the question that  
23 asks whether the conduct was done with malice, et cetera --  
24 let me pull it up so I have it handy here.

25 I believe it was question -- I guess starting with

1 Question 9. What I've done in the past is I asked the  
2 question in the first phase: Did, in this case, Charif  
3 Kazal engage in conduct with malice, oppression or fraud?  
4 If they answer that question "yes" as it relates to any of  
5 the defendants, then there will be a phase two to argue over  
6 punitive damages. What I've done in this courtroom is we go  
7 right into phase two if one is necessary. So there won't be  
8 a break unless it's late in the evening, I suppose.

9                   Once the question has been answered, I will inform  
10 the jury: Now that you have answered that question, you'll  
11 need to decide what, if any, damages will be given. You'll  
12 be allowed to present evidence and your argument as it  
13 relates to the punitive damages, and then do argument as it  
14 relates to the punitive damages.

15                   So I share this with you all so that you all  
16 should have your witnesses if there is a punitive damages  
17 phase.

18                   Similarly, hopefully, by Monday afternoon, I will  
19 have closing jury instructions, at least a draft, available  
20 for you all to review on -- I should say -- I meant to say  
21 Tuesday, by Tuesday. Obviously, we need to include some  
22 instructions that talk about interrogatory responses,  
23 deposition testimony, and I think that's all the additional  
24 instructions that come to mind right now, but we'll be  
25 working on that between now -- my days are screwed up --

1 between now and Monday because you are coming back on  
2 Monday.

3 Any other issues that we need to discuss before we  
4 adjourn for the day?

5 Mr. Wiener?

6 MR. WIENER: No, Your Honor.

7 THE COURT: Mr. Taylor?

8 MR. TAYLOR: I don't believe so, Your Honor.

9 THE COURT: So I will see you all on Monday. Have  
10 a good weekend, and we'll resume with the trial then.

11 MR. WIENER: Thank you, Your Honor.

12 MR. TAYLOR: Thank you, Your Honor.

13 (Thereupon, at 4:32 p.m., proceedings adjourned.)

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4 ***CERTIFICATE***

5

6 *I hereby certify that pursuant to Section 753,*  
7 *Title 28, United States Code, the foregoing is a true and*  
8 *correct transcript of the stenographically reported*  
9 *proceedings held in the above-entitled matter and that the*  
10 *transcript format is in conformance with the regulations of*  
11 *the Judicial Conference of the United States.*

12

13 Date: February 12, 2019

14

15 *Lisa M. Gonzalez*  
16 */s/* \_\_\_\_\_  
17 *Lisa M. Gonzalez, U.S. Court Reporter*  
18 *CSR No. 5920*

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